



Appeal Decision

Site visit made on 2 January 2024

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th January 2024

Appeal Ref: APP/N3020/W/23/3328444

164 Longdale Lane, Ravenshead, Nottingham NG15 9AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Oliver against the decision of Gedling Borough Council.
 - The application Ref 2023/0078, dated 25 January 2023, was refused by notice dated 16 June 2023.
 - The development proposed is single storey rear extension, conversion of covered way to living accommodation and internal alterations.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension, conversion of covered way to living accommodation and internal alterations at 164 Longdale Lane, Ravenshead, Nottingham NG15 9AH in accordance with the terms of the application Ref 2023/0078, dated 25 January 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2022-105 (Floor plans – location plan) and 2022-105(2) (Elevations – Block plan).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matters

2. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published. In relation to this appeal the relevant parts of the Framework are similar. Consequently, I have not gone back to the parties for comments. Whilst I have had regard to the Framework in reaching my decision, no party would be prejudiced or caused any injustice by me taking this approach.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.

- The effect of the proposal on the openness of the Green Belt.
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. No 164 is a two-storey, semi-detached dwelling which has previously been extended. Policy 13 of the Gedling Borough Local Planning Document: Part 2 Local Plan (2018) (LPD) states that within the Green Belt, planning permission will be granted for extensions or alterations to buildings provided the proposals do not result in the floorspace of the building being over 50% larger than when originally constructed or as it existed on 1st July 1948. Policy 3 of the Greater Nottingham Aligned Core Strategies: Part 1 Local Plan (2014) (ACS) confirms that the principle of the Green Belt will be retained.
5. Paragraph 154 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. Under section c) of that paragraph an extension to a building will not be inappropriate provided that it does not result in disproportionate additions over and above the size of the original building.
6. The dwelling originally formed one of a pair of semi-detached properties which were converted to a single dwelling in approximately 1986 and then was reconverted back to a pair of semi-detached properties in approximately 2006. The Framework sets out that original building is defined as the building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. This definition specifically refers to the words 'original building', 'constructed' and 'built originally'. Similarly, Policy LPD 13 specifically refers to 'building' and 'originally constructed'.
7. The circumstances of the Guildford BC v SSLUHC & Mr C Weeks [2023] EWHC 575 (Admin) case are not comparable to the case before me. That case related to a replacement dwelling and the development plan contained detailed policies relating to replacement dwellings in the Green Belt.
8. No 136 was originally built as a semi-detached dwelling. The building was converted to a single dwelling then to a semi-detached dwelling, rather than a new building being constructed. The use class of the site did not change through the conversions. Accordingly, having regard to the evidence submitted, in the context of Framework paragraph 154 c), the original building definition and the wording of Policy LPD 13, in this case, the original building is the original semi-detached dwelling as it was originally built.
9. The proposed extension would replace the existing rear extension and conservatory. The proposal would increase the floor area and volume of the dwelling, albeit to a limited degree. The previous extensions have substantially increased the floor area and volume of the original building. The proposed extension when taken in combination with previous additions, would result in the floorspace of the building being over 50% larger than when originally constructed or as it existed on 1st July 1948. Accordingly, it would result in disproportionate additions over and above the size of the original building.

10. Consequently, the proposal would not fall under any of the exceptions listed in the Framework and would conflict with Policy LPD 13. The development would therefore be inappropriate development in the Green Belt having regard to chapter 13 of the Framework, Policy LPD 13 and Policy 3 of the ACS.

Openness

11. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The openness of the Green Belt has a spatial aspect as well as a visual aspect.
12. The extension would have a spatial impact because it would increase the level of built development in this location and would add to the cumulative bulk, scale and mass of the dwelling. The scheme would have a limited visual impact due to its siting to the rear and existing extensions.
13. Consequently, the development would not preserve the openness of the Green Belt, albeit to a very limited degree given the siting and scale of the extension (taking into account the existing extensions). As such, the proposal would conflict with the fundamental aim of Green Belt policy, as stated in the Framework, to keep land permanently open.

Other considerations

14. The appellants have highlighted a number of other considerations. They have drawn my attention to a legal judgement, where it was held that the circumstances do not have to be unique, and the possibility that similar circumstances might arise elsewhere does not prevent a finding of very special circumstances in any particular case¹.

Fallback position

15. Since the submission of the appeal, a prior approval application has been granted by the Council for a single storey rear extension². In this regard my attention has been drawn to another legal judgement³ which discusses the approach to be taken when considering a fallback.
16. I have also considered the extracts from appeal decisions in relation to fallback positions⁴. Limited information has been provided regarding those cases. Whilst they do demonstrate Inspectors have given weight to fallback positions, the circumstances (such as difference in floor space, volume and impact on openness) cannot be directly compared. Therefore, I have determined the appeal, and the weight to be given to the fallback position, on its own merits.
17. Policy LPD 13 specifically refers to floorspace, rather than volume. The Framework refers to 'size', and therefore the overall size increase in terms of volume and external dimensions (as well as considering floorspace) are considerations in comparing the schemes.

¹ Basildon v FSS & Temple [2004] EWHC 2759 (Admin) and in Basildon v SSETR & Ors [2000]

² 2023/0638

³ David and Edith Lloyd v SSCLG & Dacorum Borough Council [2013] EWHC 3076 (Admin)

⁴ APP/J1915/D/16/3161727, APP/A4710/D/19/3221998, APP/V1505/D/17/3171023, APP/N0410/W/17/3173249, APP/U1240/D/19/3228676, APP/G2245/D/17/3180411, APP/D3640/D/17/3182852, APP/C3620/D/17/3170621, APP/R0660/D/19/3240413 and APP/P1805/D/20/3254449

18. The supporting text of Policy LPD 13 states that when calculating the floor space, it would exclude floor space that has been granted planning permission but not yet built. This relates to the calculation of assessing whether a proposal would result in the floorspace of the building being over 50% larger rather than the weight to be given to a granted prior approval application in assessing whether very special circumstances exist.
19. The prior approval scheme would be higher but it's floor area and volume would be smaller than that proposed, albeit not significantly different. Furthermore, there would be little difference between the schemes in relation to the openness of the Green Belt due to the scale and siting of the developments.
20. As part of the fallback position, the appellants have highlighted that the dwelling benefits from permitted development rights, and should the appeal be dismissed, a games room would also be constructed under Class E. The outbuilding would, to a degree, be more harmful to the openness of the Green Belt than the proposed extension. This is because it would be sited away from the dwelling, and neighbouring dwellings.
21. Based on the evidence presented, there is a real prospect of the fallback development being implemented, particularly the prior approval rear extension. Thus, there is a greater than theoretical possibility that the fallback development might take place. The fallback scheme (including the prior approval rear extension and proposed outbuilding) would have a notably greater cubic capacity, but a slightly smaller floor area compared to the appeal scheme. Overall, the fallback position would have a similar impact on the Green Belt to the appeal scheme. For the reasons given above, I give the fallback position significant weight.

Fairness to the appellants

22. In 2014 planning permission was granted for a similar extension to that proposed⁵. The appellants were mindful of that permission when they purchased the dwelling. A similar rear extension at No 162 (the neighbouring property) was also granted planning permission in 2017⁶. In this regard, my attention has been drawn to the fundamental aims of the planning system, the Franks principles and that each application needs to be judged on its own merits.
23. Ultimately in those cases the Council granted planning permission because they came to a different conclusion as to what constitutes the 'original building'. Whilst I do not agree with the Council's assessment of the 'original building' in those cases, the planning history of the site is relevant as a similar extension has been granted planning permission. The 2014 permission has expired, and a new development plan and Framework have been adopted. Nonetheless, there has been no fundamental change in Green Belt policy, in relation to extensions, since those decisions. For these reasons, I give this consideration limited weight.

⁵ 2013/1442

⁶ 2017/0842

Environmental improvements

24. The existing rear extension is in a poor state of repair and is of poor design which detracts from the host dwelling. The proposed extension would improve the design of the dwelling and the building's energy efficiency. Having said that, a smaller extension would also provide the similar benefits. For these reasons, I give this consideration limited weight.

Personal benefits

25. The extension would provide personal benefits to the appellants, and their children, as it would improve the amount and layout of living accommodation. The appellants state that this would enable them to stay in the local area.
26. Planning Practice Guidance sets out that planning permission usually runs with the land, and there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission⁷. Personal circumstances rarely outweigh general planning considerations as the occupants of a dwelling can change whereas an extension would be permanent. Having regard to the information submitted, I do not consider that the appellants circumstances amount to an exceptional occasion. Furthermore, the above fallback position would also provide these personal benefits. For these reasons, I give this consideration neutral weight.

Absence of harm

27. The appellants set out that as the extension would be screened by existing built development, there would be no harm to openness nor the purposes of including land within the Green Belt. Furthermore, no harm has been identified to the character and appearance of the area nor the amenity of neighbouring occupiers. There has been no objection from neighbours or statutory consultees.
28. I have found the development would not preserve the openness of the Green Belt. In any event, the absence of harm and compliance with local and national planning policies does not amount to a positive factor in favour of the scheme. For these reasons, I give this consideration neutral weight.

Avoidance of poor design

29. The prior approval extension would result in a constrained area of space between the extension and No 166's garage. I do not consider that this space would be unusable, but the appeal proposal would be a more suitable and sympathetic design. For these reasons, I give this consideration very limited weight.

Whether very special circumstances exist

30. The proposal would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt. The proposal would not preserve the openness of the Green Belt, albeit to a very limited degree. Paragraph 153 of the Framework is clear that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other

⁷ Paragraph: 015 Reference ID: 21a-015-20140306

harm resulting from the proposal, is clearly outweighed by other considerations.

31. As set out above, I give significant weight to the fallback position, limited weight to the previous approved extensions, limited weight to the environmental improvement's consideration, and very limited weight to the design consideration. The other considerations highlighted are given neutral weight.
32. Taken together, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development, in line with the requirements of the development plan and the Framework.

Conditions

33. It is necessary to attach a condition specifying the approved plans as this provides certainty. A condition relating to materials is also necessary to preserve the character and appearance of the area.
34. The appellants have suggested a condition to remove permitted development rights to ensure that further outbuildings are not erected. The Council has not suggested such a condition. Considering paragraph 54 of the Framework, in this case, there would be no clear justification to restrict national permitted development rights.

Conclusion

35. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, the appeal succeeds.

L Wilson

INSPECTOR