



Appeal Decision

Site visit made on 28 February 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal Ref: APP/P1805/W/23/3331687

The Spinney Lilley Green Road, Alvechurch, Worcestershire B48 7HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ian Dixon against the decision of Bromsgrove District Council.
 - The application ref is 23/00462/S73.
 - The application sought planning permission for erection of triple garage and wall without complying with Condition 2 attached to planning permission 22/00017/FUL, dated 14 March 2022.
 - The condition in dispute states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no development included within Schedule 2, Part 1, Classes A to E shall be carried out without express planning permission first being obtained from the Local Planning Authority. This condition shall take effect on 14th March 2022.
 - The reason given for the condition is to protect the openness of the Green Belt.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2023 and is therefore a material consideration. Whilst the relevant sections of the new Framework have not changed in respect of the main issue of concern in this appeal, the paragraph numbering has changed. Accordingly, I have referred to the updated Framework paragraph numbering.
3. Paragraph 55 of the Framework and the National Planning Practice Guidance (NPPG) set out that conditions should only be used where they satisfy the 6 tests and that each of them need to be satisfied for each condition which an authority intends to apply.
4. The development, including a triple garage with store at the rear and wall connecting the garage to the dwelling house, as granted under planning permission ref 22/00017/FUL, has already taken place.

Background and Main Issue

5. Planning permission was granted for the development subject to a condition removing permitted development rights for any enlargements and alterations to the dwelling house, including to its roof and for any outbuildings within its curtilage that would be incidental to the enjoyment of the dwelling. The

Council's statement indicates that the condition is reasonable and necessary to protect the openness of the Green Belt. The appellant objects to the condition and considers that the fact the appeal property lies within the Green Belt does not justify the wholesale withdrawal of permitted development rights and, that the Council has acted unnecessarily and unreasonably in imposing such condition. Thereby, the appellant considers the Council has not met all of the relevant 6 tests in applying the condition.

6. In view of the above, the main issue is whether the condition is reasonable and necessary in the interests of protecting the openness of the Green Belt.

Reasons

7. The appeal site lies within the Green Belt and comprises a large detached, isolated dwelling set within a spacious plot of land, surrounded by open countryside. The land levels of the garden of the dwelling vary, including that they rise to the north and east. There is an open post and wire fence along the north-west side boundary of the appeal site, with an agricultural field used for grazing beyond. Also, on the opposite side of Lilley Green Road are agricultural fields. Therefore, the character and nature of the surrounding area is rural open countryside.
8. From my observations and the evidence provided, the appeal property has had a number of significant alterations and extensions, including land level changes around part of the dwelling with a retaining wall constructed, the erection of the large triple garage with a store to the rear, a large flat roof single storey side extension and rear flat roof extension to the dwelling, and also entrance gates, piers and wall.
9. The large triple garage, with store and wall linking it to the main dwelling, extends a significant distance out to one side of the dwelling. It has a considerable ground floor area greater than that of the original dwelling house and has a high, bulky pitched roof. Due to the scale of the development the Council considered it was inappropriate development in the Green Belt and thereby, it was not an exception listed within paragraph 154 of the Framework and Policy BDP4.4 of the Bromsgrove District Plan 2011-2030 (January 2017) (BDP).
10. However, on the basis of a realistic fallback position that outbuildings could be erected as permitted development under the terms of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), as amended, it was considered that by removing permitted development rights to restrict further development within the site, this would comprise very special circumstances to justify the inappropriate development, in the interests of protecting the openness of the Green Belt and safeguarding the countryside from encroachment.
11. As set out in paragraph 142 of the Framework, 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. Therefore, even if the scale of some potential development under permitted development rights may be relatively minor, there may be some harmful effect on the openness of the Green Belt in that there would be built development where previously there was none.

12. Within the definition of article 2(3) of the GPDO, Green Belt land is not included as land where further restrictions apply. Consequently, permitted development rights for dwelling houses within the Green Belt are no different to those in other locations.
13. The Framework and NPPG clearly indicate that exceptional circumstances must apply for the removal of permitted development rights. Therefore, any blanket removal of permitted development rights in the Green Belt would be highly unlikely to be justified through exceptional circumstances. This is because a situation where a dwelling house may be altered and extended or other permitted development rights be implemented could apply to many properties across the country in the Green Belt and on this basis, would not amount to exceptional circumstances. As such, it is reasonable to assume that permitted development rights should remain in place, unless there is clear justification for such an approach to be taken based on the circumstances and individual merits of the particular case.
14. Therefore, in view of the above, that the appeal site is within the Green Belt is not in itself adequate justification to remove permitted development rights. However, a significant amount of development has already been undertaken at the appeal property and consequently, the triple garage and store is inappropriate development which, by definition, is harmful to the Green Belt and should not be approved except in very special circumstances.
15. The restriction of further development through the removal of permitted development rights via the condition, was necessary to justify very special circumstances to allow the development. Accordingly, without the condition the development would have been refused, as it would have conflicted with the Framework and Policy BDP4 of the BDP. Furthermore, the evidence provided in this appeal does not demonstrate why the development would be acceptable without such very special circumstances to justify its inappropriateness.
16. The removal of permitted development rights may not necessarily preclude all development, rather it is a means of controlling any such development through the development management process. This is not therefore an unreasonable approach in the context of development that has previously taken place within the appeal site and so, in this instance, is an appropriate means of restricting any further inappropriate development in the Green Belt that would otherwise be permitted. Thereby, the condition would ensure the essential openness characteristics of Green Belts is unharmed.
17. That works have commenced in relation to a detached outbuilding in the rear garden of the appeal property is not a matter before me for consideration. However, this demonstrates there is a likely prospect that further development would take place within the appeal site, which could thereby cause harm to the character and openness of the Green Belt.
18. I have had regard to the examples of appeal decisions provided by the appellant in respect of development within the Green Belt, where the removal of permitted development rights for dwellings have been reinstated on appeal. However, these examples are not within the same district as the appeal site and they relate to different types of developments, including a barn conversion to a dwelling, a replacement dwelling, and the rebuilding of a bungalow, rather than extensions to an existing dwelling, and so are not directly comparable to

the proposed development. Therefore, I have had regard to the individual merits of the appeal proposal in reaching my decision.

19. Having regard to the above and the evidence provided, the specific circumstances of the case, including the appeal site context and characteristics, the condition is reasonable and necessary in the interests of protecting the openness of the Green Belt. As such, I conclude the removal of the condition would conflict with the Framework and Policy BDP4 of the BDP, which seeks to protect the Green Belt from inappropriate development and requires that the scale of extensions to residential dwellings has no adverse impact on the openness of the Green Belt.

Conclusion

20. For the reasons given above, I conclude the appeal should be dismissed.

C Billings
INSPECTOR