



Appeal Decision

Site visit made on 8 May 2024

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31.05.2024

Appeal Ref. APP/T3725/D/24/3339379

3 Three Ways, Firs Lane, Haseley, Warwickshire CV35 7LY

- 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 Peter Taylor against the decision of Warwick District Council.
 - The application ref. is W/23/1259.
 - The development proposed is *"Erection of first floor side extension over existing garage and single storey rear extension to replace existing conservatory"*.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of first floor side extension over existing garage and single storey rear extension to replace existing conservatory at 3 Three Ways, Firs Lane, Haseley, Warwickshire CV35 7LY in accordance with the terms of the application, ref. W/23/1259, dated 25 August 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 as titled/numbered: Site Location Plan 2305-08 PL-1; Existing Plans 2305-08 PL-2; Existing Elevations 2305-08 PL-3; Proposed Plans 2305-08 PL-4 Rev A; and Proposed Elevations 2305-08 PL-5 Rev A.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those of the existing dwelling.
 - 4) Works shall be carried out in accordance with the recommendations set out in the Preliminary Roost Assessment report dated 6 February 2024 by Focus Environmental Consultants. In particular: (A) a licensed bat worker shall remain on call during the development works hereby permitted and in the event that roosting bats are discovered, work must cease immediately and the licensed bat worker contacted who will liaise with Natural England as required to advise on any licensing requirements to allow lawful completion of the works; and (B) before any of the additional accommodation hereby permitted is occupied, a bat box shall be installed within the land ownership of 3 Three Ways - the box should be wall-mounted on the existing main property (e.g. a Beaumaris, Eco Kent or Improved Crevice bat box) or installed on a suitable
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mature tree in the garden (e.g. a Schwegler 2F bat box). The box shall be installed at least 4 m above ground level and shall not be placed directly above windows.

Preliminary matters

2. The description of the proposed development in the heading and decision above is taken from the Council's decision notice and the planning appeal form. It is more accurate than the one provided on the application form and has been used by the parties in their submissions.
3. The revised versions of the National Planning Policy Framework (the Framework), published in December 2023, do not materially differ from the previous version, insofar as the planning policies around the main issues in this appeal are concerned.

Main issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
 - the impact on the openness of the Green Belt;
 - the impact on biodiversity, with particular reference to bats, a protected species; and
 - if the development would be inappropriate development in the Green Belt, whether the 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 necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development in the Green Belt

5. Paired with Wayside, 3 Three Ways is a semi-detached, 2-storey dwelling. It is linked to the adjacent semi-detached pair of cottages (Brambles and Copse Cottage) through non-original side extensions that have been added to Brambles and the appeal property. Still, the original semi-detached form of all 4 cottages is readily apparent and they are viewed as a distinct group of buildings which complement their bucolic setting. The evidence before me points to the appeal dwelling and the group of 4 dwellings as a whole being first built in the 1930s. All 4 cottages have been subsequently extended.
6. Policy DS18 of the Warwick District Local Plan 2011-2029 (LP), September 2017, says that the Council will apply national planning policy to proposals within the Green Belt. The Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances and that the construction of new buildings should be regarded as inappropriate in the Green Belt apart from a number of defined exceptions. One of those exceptions, at paragraph 154 c), is the extension or alteration of a building provided that it does not result in disproportionate

additions over and above the size of the original building. The “original building” is defined in Annex 2 of the Framework as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. The Framework does not define “disproportionate” or contain specific numerical limits on the size of extensions. Insofar as the Framework is concerned, it would therefore be a matter of planning judgement in each case.

7. LP Policy H14 applies with equal measure within and outside the Green Belt and expands upon the meaning of the exception at paragraph 154 c) of the Framework. The policy itself indicates that extensions to dwellings in Green Belt locations will be permitted unless they result in disproportionate additions to the original dwelling (excluding any detached buildings) which do not satisfy 3 specific criteria.
8. The policy’s explanatory text accepts that it is not possible to define what is considered to be a disproportionate addition as this will depend upon various factors including the scale, design and character of the dwelling and any extensions, the location of the property and its visual impact on the wider area and the design and character of the extension proposed. The text goes on to say that the Council will consider each case on its merits, although as a guide, within the Green Belt, additions (taking into account any previous extensions) that lead to an increase of more than 30% to the gross floor space of the original dwelling are likely to be considered disproportionate. The text is relevant to the interpretation of the policy, but it does not amount to policy in itself. Moreover, the text is not written in a way that would mean that the 30% figure should be viewed as an absolute maximum percentage increase.
9. The Council’s evidence shows that the existing 1½ storey side extension, front porch and rear conservatory were added to the property after 1 July 1948. Taking into account these previous extensions, the proposed scheme would result in a cumulative increase in the gross floor space of the original dwelling by about 57%. This would amount to a breach of the guideline figure of 30%.
10. The existing front porch is modest in size and proportion and the appeal scheme does not propose that it be enlarged or amalgamated with the proposed side extension as has unfortunately occurred at the other 3 cottages.
11. The existing 1½ storey side extension is narrow, representing only about 32% of the width of the whole front elevation, of limited height and set back behind the adjoining larger side extension to the Brambles. The proposed elongation to the front roof slope over it to primarily achieve the relocation of the staircase would be almost imperceptible when viewed from the street, whilst the associated upward extension to the wall face and roof at the rear would not appear out of proportion with the original dwelling. The proposed first floor side extension would be set well below the main roof ridge. In all, the resulting side extension would appear to be notably subservient to the original dwelling.
12. The single storey rear extension would be larger than the existing conservatory it would replace but its flat-roofed, single-storey form would ensure that it would not challenge the dominance of the original 2-storey building. Moreover, the site where the ground floor rear extension is proposed forms part of the existing developed residential area with similar ground floor rear extensions at the other 3 cottages. It would not materially encroach beyond the line

established by those other rear extensions and would not significantly extend the visual impression of built development in this rural Green Belt area.

13. I am satisfied that the proposed development, when assessed alongside the previous extensions to the property, would respect the character of the original semi-detached cottage which would retain its visual dominance, would not materially erode the openness of the rural area and would not substantially alter the scale, design and character of the original dwelling. Notwithstanding the technical breach of the 30% guideline, there would therefore be compliance with the 3 key criteria within LP Policy H14.
14. Drawing all the above together, I find that the proposal, when taken cumulatively with the previous extensions, would not result in disproportionate additions over and above the size of the original building. On this basis, I find that the proposal would not constitute inappropriate development in the Green Belt and would accord with the Framework and LP Policies DS18 and H14.

The openness of the Green Belt and the matter of very special circumstances

15. The Court of Appeal in *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404* endorsed the view that where development is found to be not inappropriate, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt.
16. I am aware that the appellant has carried out detailed calculations of the extensions that have been added and proposed to Brambles, Wayside and 3 Three Ways and found that in all probability both adjacent properties would still have a greater overall volume and floor area than the appeal property if the appeal scheme was to be implemented. It is not necessary for me to assess this other consideration in detail; as I have found that the development would not constitute inappropriate development within the Green Belt, there is no requirement for very special circumstances to justify the development to be demonstrated.

The impact on biodiversity, with particular reference to bats, a protected species

17. At the application stage, the Council, having regard to the advice of the County Ecologist, Circular 06/2005 and LP Policy NE2 found that insufficient information had been provided to demonstrate that the proposed development would not adversely affect protected species, namely bats.
18. A Preliminary Roost Assessment (PRA) has been submitted with the appeal. This found that no further presence/absence surveys are required to support the application as the potential for significant impacts upon bats to arise during the works is negligible. The recommendations in the PRA for precautionary measures to be deployed during construction work and for a bat-roosting opportunity to be provided on site have been noted and I am satisfied that the recommendations can be adequately covered by a planning condition.
19. I am therefore satisfied that the appeal scheme can be carried out without any adverse implications for protected species, namely bats, and without any conflict with LP Policy NE2 which seeks, amongst other things, to ensure that

developments do not adversely affect protected, rare, endangered or priority species.

Other matter

20. The Council mentioned the emerging Warwick Net Zero Carbon Development Plan Document (DPD) but I have not been provided with a copy of the DPD or been referred to any relevant policies it may contain or received confirmation of its adoption. In such circumstances, I can only afford limited weight to this matter and in any event, it would not change the conclusion I have reached on the main issue.

Conditions

21. The Council has recommended 3 conditions. I have imposed the standard time limit condition, ensured that the development is carried out in accordance with the approved plans, both for the avoidance of doubt and in the interests of proper planning and required the use of matching materials to protect the visual amenities of the area. In the interests of biodiversity and noting the strict protection given to bats and their roosts, I have added the condition I referred to in paragraph 18 above so as to reflect the recommendations made within the PRA.

Conclusion

22. For the reasons given above and having had regard to all other matters raised, I conclude that this appeal should be allowed.

Andrew Dale

INSPECTOR