

Appeal Decision

Site visit made on 27 August 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/L3245/D/24/3340901

The Old House, Hillcrest Junction to Digbeth Lane, Hopstone, Claverley, Shropshire WV5 7BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Roger Bate against the decision of Shropshire Council.
 - The application Ref is 23/05127/FUL.
 - The development proposed is extension to existing outbuilding to create single occupancy assisted dwelling unit.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, including the effect on the openness of the Green Belt;
- the effect of the proposal on protected species; and
- 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 required to justify the proposal.

Reasons

Whether inappropriate development

3. The appeal site comprises a dwelling which is situated in the Green Belt. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy (2011) (CS) relates to the countryside and Green Belt and states that within the Green Belt there will be additional control over new development in line with government guidance set out in PPG2. Though this policy refers to the now withdrawn PPG2 and not the National Planning Policy Framework (The Framework), both set out the general presumption against inappropriate development in the Green Belt. Policy MD6 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan

(2015) (SAMDP) further requires development to demonstrate that it does not conflict with the purposes of the Green Belt.

4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
5. The proposal involves an extension to an existing outbuilding to create an assisted dwelling unit. Paragraph 154 of the Framework establishes that, within Green Belts the construction of new buildings is inappropriate, subject to a number of exceptions. One exception, at Paragraph 154 (c), relates to 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.
6. The appellant maintains that the outbuilding subject of this appeal comprises 2 separate buildings that were joined at some point in the past. It is suggested that the 'original buildings' as separate entities ceased to exist and the building as it currently stands now comprises the 'original building'.
7. In the context of the Framework the glossary advises that 'original building' refers to a building as it stood on 01 July 1948 or as constructed if built after that date. The original outbuildings have been extended to form one large outbuilding through the incorporation of a link extension between the 2 structures. The fact that a larger, amalgamated building has been created through an extension does not alter how the buildings stood when they were constructed. Given this the extension of these buildings has not resulted in the creation of a new 'original building'. Thus, for the purposes of Paragraph 154 of the Framework, the term 'original building' refers to the buildings as originally constructed, and not the extended amalgamated structure which sits on the site today.
8. The Framework does not define what it means by 'disproportionate'. Thus, an assessment of whether the proposed extension would be a disproportionate addition is a matter of planning judgement. Whilst it is stated that the extension would have a smaller footprint than the existing building and a lower roof height, nonetheless with a footprint of approximately 65m² it would be of a considerable scale, and when seen in combination with the existing extensions would result in a disproportionate addition over and above the size of the original building, and indeed the building as it currently exists. Accordingly, the proposal would not meet the above exception. It would therefore be inappropriate development in the Green Belt.
9. The Framework, at Paragraph 142, sets out 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. Green Belt openness, as a matter of planning judgement, is capable of having both spatial and visual aspects.
10. The appeal property sits within a large plot and is enclosed to the north, east and west by wrought iron railings which permit clear views of the site from the surrounding area. The property is bordered to the west by a brick wall and gates, over which the outbuilding can clearly be seen.

11. The proposal would be sympathetic to the existing building in form and materials and would incorporate a set down from the ridge of the existing building. The extension would not increase the size of the residential curtilage of the host dwelling or result in a significant increase in activity at the appeal site.
12. Nonetheless, the proposal would comprise a sizeable extension. The increase in footprint would result in more of the Green Belt being built upon than at present, reducing the spatial aspect of its openness. The increased footprint would also have a greater visual impact on the openness of the Green Belt when compared with the more modest proportions of the existing building. This would be particularly perceptible in views from the neighbouring fields and properties. In this regard the building would reduce the openness of the site. In reaching this judgement account has been taken of a court judgement¹ where it was found that the concept of openness of the Green Belt was not narrowly limited to a volumetric approach.
13. Accordingly, it is concluded that the proposal would be inappropriate development and would cause harm to openness, thereby conflicting with the Framework, CS Policy CS5 and SAMDP Policy MD6. The Framework advises that inappropriate development in the Green Belt is by definition harmful and should not be approved except in very special circumstances.

Protected species

14. The Council state that, as the appeal proposal would involve the alteration and extension of a brick outbuilding, a bat survey is required. The proposal is not supported by a bat survey, and it is stated that there is insufficient information to demonstrate that protected species would not be adversely affected by the proposal.
15. On the evidence before me it appears that the building subject of this appeal was constructed between 2005 and 2008. At my site visit I observed that the building appears to be in good condition and in active use and did not appear to include any means by which bats could enter. I have not been presented with a compelling case which sets out why there is a reasonable likelihood that the building provides a habitat which supports bats. Thus, the proposal does not conflict with CS Policy CS17 which states that development should identify, protect, enhance and connect Shropshire's environmental assets. I also find no conflict with the Framework, which sets out the principles for the determination of planning applications to protect and enhance biodiversity.

Other considerations

16. The proposal is to provide accommodation for the appellant's elderly father who requires on-site care by the appellant. The appeal development would bring demonstrable social benefits for the appellant's family. Dismissing this appeal could lead to the intended future occupier of the unit being unable to find suitable accommodation to meet their personal circumstances which would have negative effects on the intended future occupier. I have therefore had due regard to the Public Sector Equality Duty (PSED)

¹ Turner [2016] EWCA Civ 466

contained in Section 149 of the Equality Act 2010, which specifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.

17. It is stated that alterations and extensions to the host dwelling would require considerable disruption and layout changes to this listed building and that accommodation provided within a demountable structure such as a mobile home would have a detrimental visual impact on the host dwelling and the openness of the Green Belt. Given this, it is suggested that the appeal proposal represents the least harmful option in relation to the effect on the openness of the Green Belt and the setting and significance of the listed building.
18. However, there are no details before me of these alternatives to give substantial credence to in terms of their scale, siting and appearance and any harm to the openness of the Green Belt and/or the significance of the listed building resulting from a demountable structure would be temporary in nature. Therefore, from the information provided it has not been demonstrated that alternatives would have a greater impact on the openness of the Green Belt or that they would be more harmful to the significance of the host listed building. Given this, I attribute limited weight to these alternatives in my decision.
19. Whilst the proposed extension would support a family member, it has not been evidenced that alternatives could not meet the same aims in providing this accommodation, including the reuse of space within the host dwelling and existing outbuilding. Additionally, I am mindful of the advice contained in the Planning Practice Guidance that, in general, planning is concerned with land use in the public interest. It is probable that the proposal would remain long after the current personal circumstances cease to be material. Thus, in having due regard to the PSED, the harm caused by the appeal development in terms of the conflict with the well-established and legitimate planning purposes of Green Belt policy outweighs its benefits in terms of eliminating discrimination against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others.
20. There would be economic benefits during construction. However, given the scale of the development this carries limited weight.

Other Matters

21. Statute requires that I pay special regard to the desirability of preserving a listed building or its setting². The Old House is grade II listed and its significance appears to lie in its aesthetic qualities. The proposal would retain the separation between the outbuilding and the host dwelling and the cultivated area which separates the 2 buildings. Thus, the proposed development would preserve the setting of this listed building. However, this lack of harm weighs neutrally, rather than in favour of the proposal.

² Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990

22. The Council raised no objection to the proposal with regards to flooding, highway safety or the effect on the highway network. The appellant has expressed a willingness to incorporate a bat/ bird box. However, compliance with the relevant development plan policies on these matters would be required in any case. Thus, these matters weigh neutrally, rather than in favour of the proposal.

Planning Balance and Conclusion

23. I have found that the proposal would not result in harm to protected species. Nonetheless, it would result in inappropriate development in the Green Belt, which would, by definition, be harmful. The Framework indicates that such harm should be given substantial weight. I also give substantial weight to the adverse impact on the openness of the Green Belt.
24. For the reasons set out above, the harm to the Green Belt would not be clearly outweighed by the other considerations. Therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated.
25. The proposed development conflicts with the development plan and there are no material considerations, either individually or in combination, which outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

N Robinson

INSPECTOR