



Appeal Decision

Site visit made on 1 October 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2024

Appeal Ref: APP/Q4625/D/24/3346708

Top Lodge, Kenilworth Road, Balsall Common, Solihull CV7 7FB

- 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 George Hancock against the decision of Solihull Metropolitan Borough Council.
- The application Ref is PL/2023/02653/MINFHO.
- The development proposed is a single storey flat roofed link with roof lantern and garage conversion.

Decision

1. The appeal is allowed, and planning permission is granted for a single storey flat roofed link with roof lantern and garage conversion at Top Lodge, Kenilworth Road, Balsall Common, Solihull CV7 7FB in accordance with the terms of the application, Ref PL/2023/02653/MINFHO, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The external materials of the extension hereby permitted shall match those used in the existing dwelling.
 - 3) The development hereby permitted shall be carried out in accordance with drawing number 5754/03 rev B.

Preliminary Matters

2. The description of development in the banner heading above is taken from the Council's decision notice, as I consider this to be a clearer description of the proposal than that given in the application form.
3. Both main parties have drawn my attention to an application for a Certificate of Lawful Development for conversion of the garage and a ground floor side extension at the appeal property¹. The Certificate has been issued as lawful. The scheme allowed through the Certificate is likely to be developed in the event that the appeal before me should fail. Consequently, that scheme represents a realistic fallback position.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework and any

¹ Council ref: L/2024/00833/CLOPUD

relevant development plan policies;

- the effect of the development on the openness of the Green Belt; and
- 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

Inappropriate development

5. Top Lodge is a detached dwelling with a detached double garage. It lies within the Green Belt and is located off Kenilworth Road served by a new access road which was constructed as part of the works to the adjacent highway.
6. The National Planning Policy Framework (the Framework) explains that the Government attaches great importance to Green Belts. 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.
7. The construction of new buildings within the Green Belt are inappropriate development and inappropriate development is, by definition, harmful to the Green Belt. However, Paragraph 154 of the Framework sets out a number of exceptions. The exception at Paragraph 154 c) of the Framework allows for 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.
8. Policy 17 of the Solihull Local Plan 2013 (SLP) sets out that the Council will not permit inappropriate development in the Green Belt, except in very special circumstances; and that development involving extension or alteration of buildings in the Green Belt will not be permitted if, among other matters, it will harm the purposes of including land within the Green Belt. The policy is broadly consistent with the Framework regarding Green Belt.
9. The Framework does not provide a definition of 'disproportionate additions' and neither does Policy 17. However, the Council's House Extension Guidelines 2010 Supplementary Planning Document (SPD) addresses the exception, albeit with reference to a much earlier version of the Framework. The SPD sets out that the Council will limit extensions to any property to no more than 40% of the original habitable floor space, measured externally. The SPD makes clear that the 40% permissible is inclusive of any extensions carried out under permitted development rights, and/or any unimplemented approvals.
10. The proposed link would provide a footprint of approximately 12sqm. The conversion of the garage which, at the time of my visit was in use for business storage and not in residential use, would also add 35sqm to the dwelling. Although the addition would only be a small increase over the current dwelling, the proposed and existing extensions would lead to a sizeable increase in the footprint and floorspace of the original dwelling. The previous extensions to the dwelling have already exceeded 40% of the original habitable floor space.
11. Consequently, the single storey link, albeit only a small addition, and the conversion of the garage, would, when taken cumulatively with the previous

extensions, result in a disproportionate addition over and above the size of the original building. The proposed single storey link and conversion of the garage would, therefore, be inappropriate development when considered against the relevant exception set out in paragraph 154 c) of the Framework and within Policy 17 of the SLP and the guidance within the SPD.

Openness

12. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
13. The existing dwelling is divorced from any other residential development and is surrounded by well-established trees. The appellant has sought to argue that the HS2 works around the site and the nearby housing allocation have altered the character of the area. However, although I have the photographs from the appellant showing the effects of the HS2 works, I did not observe any harmful effects from HS2 or the housing allocation on the openness of the Green Belt during my site visit.
14. The road outside Top Lodge has been changed to a dual carriageway and a new access road has been provided to the property. This has opened up views of the entrance gate and garage from the road. These changes have also opened up more views across the Green Belt.
15. The proposed extension would infill a small gap between the existing house and garage. The gap is already partially enclosed by a wall and gate which span between the front of the house and garage. The proposal would infill the space behind this wall. Due to the size of the extension and the existing structures, it would have a limited effect on the spatial aspect of openness.
16. The single storey link extension would not be visible from outside the appeal site due to the presence of existing structures and the trees. The alterations to the front elevation of the garage would be visible but would not substantially alter the scale or massing of the buildings. The proposal would, therefore, have limited impact on the visual aspect of openness.
17. The openness of the Green Belt would, consequently, be harmed both spatially and visually, but only to a limited degree. The harm to the openness would be contrary to Policy 17 of the SLP and the aims of the Framework.

Other considerations

18. The scheme allowed under the Certificate of Lawful Development, for a single storey extension to the side of the dwelling and the conversion of the garage, would be materially different to the appeal before me in that the certificate proposal would not connect the dwelling to the garage. However, the approved scheme would infill most of the space between the existing dwelling and the garage and would also result in the conversion of the garage to habitable space.
19. The certificate scheme would result in a very similar increase in the floorspace of the dwelling as the appeal before me. It would also have a very similar effect on the spatial and visual aspects of openness of the Green Belt.

20. The fallback scheme would not be perceptible from the appeal scheme in terms of its scale and floorspace, especially given the existing wall connecting the house and the garage. Moreover, the appeal scheme would not result in any greater harm to the openness of the Green Belt than the fallback scheme. Consequently, I give the fallback substantial weight.
21. The proposed changes to the front of the garage, to include a habitable room window, would also increase security for the property by adding natural surveillance of the area of the property that lies outside of the gated driveway. However, this would also be secured through the certificate proposal and, therefore, I have only given this benefit limited weight.

Green Belt Balance

22. The Government attaches great importance to Green Belt. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt. In this case, I have found harm to the Green Belt by reason of the proposal being inappropriate development and its impact on openness. These matters attract substantial weight.
23. The same reasons also lead me to conclude that the proposal would be contrary to the development plan as a whole and I attribute significant weight to the conflict with the development plan policies.
24. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
25. In this case the fallback position should be given substantial weight and, in my judgement, that the appeal proposal would not be of any greater harm than the fallback position provides the very special circumstances and would clearly outweigh the harm I have identified to the Green Belt.

Conditions

26. A condition specifying the time limit and approved plans is necessary as this provides certainty. I have also imposed a condition specifying that the external surfaces shall be constructed in materials to match the existing dwelling in order to ensure that the extension is of an appropriate finish and relates well to the existing development.

Conclusion

27. For the reasons given above the appeal should be allowed.

K Townsend

INSPECTOR