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## Appeal Decision

Site visit made on 11 March 2025

**by G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

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**Appeal Ref: APP/T3725/W/24/3357127**

**5 Haseley Manor, Birmingham Road, Hatton, Warwickshire CV35 7LW**

- 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 Matthew Whitbrook against the decision of Warwick District Council.
  - The application Ref is W/24/0888.
  - The development proposed is erection of a pergola.
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### Decision

1. The appeal is allowed, and planning permission is granted for the erection of a pergola at 5 Haseley Manor, Birmingham Road, Hatton, Warwickshire CV35 7LW, in accordance with the terms of the application, Ref W/24/0888, 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 development hereby permitted shall be carried out in accordance with drawing numbers: Location Plan Ref. 5HM/LOC/001, Apartment 5 block plan Ref.HM-C205 Rev.E, Plan- Apartment 5 Ref.314-AP01, Elevation Front Ref.314-AP02, Elevation Side Ref.314-AP03.
  - 3) No development shall take place until details of the pergola including drawn sections, roof construction, materials and finish have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

### Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 12 December 2024. I have considered its amendments against the earlier version and the parties' appeal evidence. I have also updated Framework paragraph numbers where necessary. However, I have not gone back to the parties for comment, as I do not consider the Framework changes to be substantive or determinative to the outcome of this appeal.
3. The appeal proposal involves a Grade II listed building. Although the Council has raised no objection in relation to the effect of the proposal on the special interest and significance of the listed building, I have a statutory duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. I have therefore added this as a main issue.

4. Additional plans were submitted with the appeal. It appears to me that these plans essentially replicate the detail and nature of the proposal considered by the Council but more clearly show the relationship of the pergola to the building and surrounding context. They also confirm the exact dimensions for the avoidance of doubt. I am satisfied that these plans would not fundamentally change the nature of the proposed development, and I am content that no parties would be unfairly disadvantaged by my acceptance of them.

### **Main Issues**

5. The main issues are:
- whether or not the proposal would be inappropriate development within the Green Belt, having regard to the Framework and the development plan; and
  - the effect of the proposal on the special interest and significance of a designated heritage asset.

### **Reasons**

6. Apartment 5 comprises several ground floor rooms and part of the basement which lies at the front of Haseley Manor. It has a sunken, private terrace which is accessed via a door in the basement area. The terrace is predominantly below ground level with a low, yew hedge around its upper edge and there are very limited views into the terrace from the surrounding area unless standing immediately alongside it.
7. The appeal proposal seeks to install a pergola within the sunken terrace, occupying approximately a third of the paved area and located between two tall windows. It would be fabricated in metal sections comprising four corner posts connected by beams, finished in a stone colour, with a retractable roof. The height of the pergola is described as approximately the height of the top of the surrounding terrace wall.

### *Whether inappropriate development*

8. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Policy DS18 of the Warwick District Local Plan (2017) (WDLP) confirms that the Council will apply national Green Belt Policy to protect the openness and character of the Green Belt. In respect to this appeal, I am satisfied that the policy is in accordance with the Framework's approach to development in the Green Belt.
9. The Framework provides some exceptions to development that is not inappropriate development. The Council considers that the proposal would not comply with any of these exceptions and therefore that the detached pergola would be inappropriate development in the Green Belt. There is little information before me to explain how the Council has arrived at this conclusion. Caselaw<sup>1</sup> has established that the exception under Framework paragraph 154 c) '*the extension of a building, provided that it does not result in disproportionate additions over and above the size of the original building*', is capable of being applicable to structures

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<sup>1</sup> Warwick DC v SSLUHC Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)

which are physically detached from the main building. In this case, in view of the pergola's intended use for domestic purposes, its siting on the terrace and in close proximity to the main dwelling, I consider that the pergola should be treated as a domestic adjunct. Therefore, for the purposes of this appeal, the proposal would be regarded as an extension to the dwelling and Framework paragraph 154 c) is applicable. That leads to the consideration of whether the pergola would meet the test of not resulting in disproportionate additions over and above the size of the original building.

10. The Framework does not set out what would constitute a disproportionate addition, and this is therefore a matter of planning judgement. The appellant advises that the proposed pergola would only increase the gross internal floor space of the existing dwelling by 7.3%. It is further suggested that this would be much less than the 30% increase which the Council typically considers to be an acceptable threshold for extensions in the Green Belt. The Council does not appear to have challenged these figures, and I agree that it would represent a small addition.
11. However, the assessment is not just about calculating the size increase, and the addition should not significantly alter the scale, character or appearance of the dwelling. Nor should it significantly increase its impact on the surrounding rural character. In this regard, I am satisfied that the open nature of the pergola would not enlarge the size of the dwelling in the same way as an extension would with solid walls and a roof. Instead, it would be viewed as a relatively open garden structure, which would be likely to have its roof retracted for much of the time and would have little greater visual presence than the existing garden paraphernalia within the terrace. Nor would it significantly obscure views of the walling behind. Furthermore, the terrace is a storey lower than the surrounding ground, and the top edge is mainly screened by a hedge. Therefore, the pergola would have no significant impact on the surrounding rural character.
12. I am satisfied that the appeal proposal would not result in a disproportionate addition over and above the size of the original building. It would comply with paragraph 154 c) of the Framework and would not constitute inappropriate development in the Green Belt. As a consequence, it would not be harmful to openness, or conflict with any of the purposes of the Green Belt. Therefore, I find no conflict with the Framework or WDLP Policy DS18.

### *Significance*

13. Haseley Manor is a Grade II listed building (Ref.1035207). The list description mentions, amongst other things, that the mansion dates from the 19<sup>th</sup> century and is designed in Gothic and Elizabethan styles. It mentions that it has rock-faced stone walls with plain tiled roofs, and it describes the form and architectural detailing of the property, highlighting its Picturesque asymmetrical composition. Its special interest and significance, for the purpose of this appeal, is derived in part from its age, historic fabric, function and its architectural features. The surrounding designed gardens and parkland and interrelated views are an intrinsic part of the building's special interest and significance.
14. The Council's Conservation Officer comments that the proposed pergola would not be prominent in views from the surrounding area and would be of an appropriate scale and design. However, concern has been expressed by other parties regarding the heritage impact due to the modern design and materials, and the

lack of roof details. I have carefully considered the submitted evidence and viewed the proposed location of the structure from various vantage points. The terrace is a storey lower than the surrounding ground level and although the submitted evidence suggests that part of this area may be historic walling, it appears that the terrace has been substantially enlarged recently. Therefore, there is little to suggest that this area has any particular historic significance. Furthermore, it is an established outdoor space which is already impacted by an array of garden furniture.

15. Considering the sunken position of the terrace and the screening provided by the hedge, the pergola would not be readily seen in conjunction with views of the front elevation, either in part or as a whole. Even at close view, with the top of the pergola approximately at ground level, it would not be conspicuous. Given the presence of the stepped walling, garden furniture and other paraphernalia in this area, I see little reason why a largely open structure over part of the terrace would be harmful to the building's significance.
16. The submitted details indicate to me that the pergola would be an appropriate feature in this area and would cause no harm to the building's special interest or significance. However, the level of detail submitted is limited and proposals can often fail visually because the detailing is not agreed. In this regard, the appellant is willing to submit further details of the sections, retractable roof structure and finish as a pre-commencement condition.
17. I therefore conclude that, subject to an appropriate condition, the proposal would have no harmful effect on the special interest and significance of the designated heritage asset. It would therefore accord with the requirements of the Act and Framework. It would also comply with WDLP Policy HE1 which reflects the requirements of the Framework.

### **Other Matters**

18. It has been suggested that the pergola may result in increased outdoor noise. However, the Council has concluded that, taking account of the location of nearby windows, there would be no material harm to the living conditions of neighbouring properties. I have little reason to consider otherwise. Furthermore, the external terrace already exists, and as the pergola would be a mainly open structure with a retractable roof for shading, I see little reason why there should be any increased level of noise and disturbance.

### **Conditions**

19. I have attached conditions to accord with the advice in the Framework and Planning Practice Guidance. In addition to a time limit condition, a condition is required to ensure that the development is carried out in accordance with the approved drawings to provide certainty. I have also added a pre-commencement condition to ensure that details are agreed with the Council prior to fabrication to ensure a high standard of finish and appearance to respect the listed building.

### **Conclusion**

20. The proposal would not be inappropriate development within the Green Belt and would accord with the development plan and the Framework. I have also found no harm to the special interest and significance of the listed building. Therefore, for

the reasons given above, and taking account of all other material considerations, the appeal should succeed, and planning permission is granted, subject to the conditions set out in paragraph 1 of this decision.

*G Bayliss*

INSPECTOR