Case Name: *Warwick District Council v Secretary of State for Levelling Up, Housing And Communities* [2022] EWHC 2145 (Admin) (12 August 2022)

Full case: Click Here

Commentary:
This was a statutory review under section 288 of the Town and Country Planning Act 1990 by Warwick District Council (the "Council") against a decision of a planning inspector to allow an appeal on the basis that the exception to the inappropriateness of development in the Green Belt regarding extensions (paragraph 149(c) of the National Planning Policy Framework (the "NPPF")) applied.

The Second Defendant's property includes a cottage (the "Cottage"), a garden, a garage and a disused timber structure all sitting within the West Midlands Green Belt. The timber structure is approximately 20m from the Cottage with a footprint of 10.2 metres squared. The Second Defendants sought planning permission to demolish the timber structure and replace it with a garden room/home office with a footprint of 16 metres squared. The Council refused the application for planning permission on the basis that the proposed structure amounted to inappropriate development in the Green Belt and that there were no very special circumstances outweighing the harm which the inappropriate development would cause. The Defendant appealed this refusal.

Policy DS18 of the Council's Local Plan provided that the Council would "apply national planning policy to proposals within the green belt." The NPPF at paragraph 147 explains that "Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances".
Notably, paragraph 149 provides that a "local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
…
c) 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;
d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces…".

The Planning Inspector found that the exception at 149(d) did not apply as 6 metres squared would amount to significant enlargement. However, the Inspector did conclude that the proposed building would be an extension within the meaning of paragraph 149(c) despite the structure not being physically attached to another building.

The court agreed with the Inspector that the exception in paragraph 149(c) applied finding "that 149(c) is not to be interpreted as being confined to physically attached structures but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension." On this basis the claim failed.

For a fuller review of this case please see Simon Rickett's blog piece.

Case summary prepared by Amy Carter