

Appeal Decision

Site visit made on 13 December 2016

by J R Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th January 2017

Appeal Ref: APP/G2245/D/16/3159155

Orchard House, Park Gate Road, Orpington, Kent BR6 7PX

- 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 J DaSouza against the decision of Sevenoaks District Council.
 - The application Ref SE/16/02071/HOUSE, dated 13 March 2016, was refused by notice dated 30 August 2016.
 - The development proposed is double garage.
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Decision

1. The appeal is allowed and planning permission is granted for a double garage at Orchard House, Park Gate Road, Orpington, Kent BR6 7PX. The permission is granted in accordance with the terms of the application, Ref SE/16/02071/HOUSE, dated 13 March 2016, 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 the following approved plans: PL-01 (site location plan), PL-03 (proposed block plan) and PL-04 (proposed garage block).
 - 3) Before any equipment, machinery or materials are brought on to the land for the purposes of the development, the means of protection of any trees located within the vicinity of the proposed works in accordance with BS5837 :2012 Trees in Relation to Construction, shall be submitted to and approved in writing by the Council. Development shall be carried out in accordance with the approved details. The existing soil levels around the boles of the trees shall not be altered. The means of protection shall be maintained until all equipment, machinery and surplus materials have been removed from the land.
 - 4) No building, enclosure or swimming pool, other than that shown on the approved plans shall be erected within the curtilage of the dwelling despite the provisions of any Development Order.

Main issues

2. As the appeal site is within the Green Belt the main issues are:
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- whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
- the effect on the Green Belt with regard to openness and the effect on the character and appearance of this part of the Kent Downs Area of Outstanding Natural Beauty; and
- if the proposal would be inappropriate development, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

3. The appeal property is a detached dwelling set in extensive grounds in a semi-rural location, opposite the western entrance to Lullingstone Park Golf Course. The proposal involves the construction of a detached double garage some ten metres to the south-east of the host dwelling.

Whether the proposal is inappropriate development

4. The National Planning Policy Framework (the Framework) makes clear in paragraph 89 that the construction of new buildings in the Green Belt should be regarded as inappropriate, with a small number of exceptions. None of these refers explicitly to domestic outbuildings as proposed in this case.
5. However, the use of the proposed building is intended to be ancillary to the established residential use of Orchard House. In these circumstances, the outbuilding is capable in principle of being considered as an extension to the existing dwelling, in accordance with the third bullet of paragraph 89, given that it would be a normal domestic adjunct to the dwelling. In this regard the Framework requires extensions not to result in disproportionate additions over and above the size of the original building.
6. The Council's intentions of how such proposals in the Green Belt should be considered are set out in Policy GB3 of the Sevenoaks Allocations and Development Management Plan (the ADMP). This states that outbuildings located more than five metres from the host dwelling, as in this case, will be permitted where the building including the cumulative impact of other outbuildings and extensions within the curtilage of the dwelling, would be ancillary to the main dwelling in terms of function and design and would not materially harm the openness of the Green Belt through excessive bulk or visual intrusion.
7. As Policy GB3 provides more detailed guidance than the Framework on this type of development, I have had regard to both national and local policy in assessing the appeal proposal. With regard to any changes to the original form of the dwelling, the Council estimates its original floor area as 230m², while the current building has a floor area of around 390m². I note that at 40.25m² the floor area of the proposed garage does not materially exceed the 40m² upper limit for outbuildings included in the Council's Supplementary Planning Document, *Development in the Green Belt*.
8. Assessing proportionality is primarily an objective test based on size and, therefore, floorspace is not the only possible measure of the degree of change, particularly where a separate outbuilding is proposed. It is instructive to compare any changes with regard to the physical size and scale of a building,

including the degree of bulk or mass that might be added. No other existing outbuildings have been drawn to my attention within the curtilage. As already noted, the proposal is intended to be ancillary to the established residential use of the dwelling and this is reflected in its appearance and design as a typical domestic outbuilding designed for its intended purpose of accommodating two vehicles. It would be subordinate in scale to the host dwelling and given the size of the residential curtilage would not appear as a disproportionate addition in its setting.

9. Therefore, despite the existing additions to the host dwelling, for the above reasons, I conclude that the proposed building would not be inappropriate development in the Green Belt for the purposes of the Framework and Policy GB3 of the ADMP, subject to its effects on the openness and visual amenity of the Green Belt, which are considered under the second main issue below.

Effect on the Green Belt and Area of Outstanding Natural Beauty (AONB)

10. The effect on openness is implicitly taken into account in the exceptions included in paragraph 89 of the Framework unless there is a specific requirement to consider the actual effect on openness. Therefore, for those exceptions within paragraph 89, including the third bullet as in this case, where the effect of the development on openness is not expressly stated as a determinative factor in gauging inappropriateness, and where the development has been found to be not inappropriate development as is the case here, there is no specific requirement to assess the impact of the development on the openness of the Green Belt. Nonetheless, as Policy GB3 specifically requires an assessment of the effect of this type of development on the openness of the Green Belt, I have considered this issue in accordance with this local policy.
11. The Framework indicates that great weight should be given to conserving landscape and scenic beauty in AONBs, which, together with National Parks and the Broads, have the highest status of protection in relation to these issues (paragraph 115). These principles are reflected with regard to the Kent Downs AONB in Policy EN5 of the ADMP.
12. To the extent that the proposal involves development where there is currently none, it would inevitably have some effect on the openness of this part of the Green Belt. Land to the south-west is open countryside, although given the extent of the curtilage of the appeal property much of this beyond the house is associated with the residential use. In views from this perspective the outbuilding would be framed by the larger tree belt behind it and the taller dwelling to one side. As such, it would appear as a limited built form which would be visually subordinate to the taller features either side of it. It would clearly appear as an ancillary feature to the main dwelling set within the residential curtilage and, therefore, would not have a harmful effect on views of open countryside.
13. The row of mature fir trees along the eastern boundary acts as a good visual screen between the adjacent golf course and Orchard House and its grounds. There is a further vegetation belt beyond this next to the golf course car park and a substantial storage building associated with the recreational use. Even if the proposed garage were to become more visible due to the loss of the tree screen, it would have little suburbanising effect as it would be seen in the context of the large dwelling and golf course building, as well as being screened to some degree by the vegetation associated with the neighbouring

use. While I acknowledge the Council's concerns about the potential impermanence of some trees, I consider that it is in the particular interests of the occupiers of Orchard House to maintain an effective screen to retain their privacy from the car park and associated use that lies immediately adjacent to the appeal property. As such, the trees would help to frame and inhibit views of the garage from the south-west and east respectively.

14. Taking these issues as a whole, I conclude that there would be no unacceptable harm to the openness of the Green Belt in this location or to the character and appearance of this part of the Kent Downs AONB. Consequently, there is no conflict with the Framework or with Policies GB3 and EN5 of the ADMP, as described above; or with Policy EN1 of the ADMP concerning good design.

Overall Conclusion

15. I have found above that the proposal would not be inappropriate development in the Green Belt in accordance with paragraph 89 of the Framework and Policy GB3 of the ADMP. Moreover, there would be no harmful effects on the openness of the Green Belt or the AONB. Consequently, there is no conflict with the Framework or relevant development plan policies and so the appeal should succeed.
16. In reaching this conclusion, I have had regard to representations made by neighbouring occupiers, particularly with regard to the contention that proposed garages have been refused at some neighbouring properties. While I note this, I am unaware of the specific circumstances involved and in any case I have determined this proposal on its merits based on all the appeal submissions and site inspection. Accordingly, this contention does not lead me to reach a different overall conclusion.

Conditions

17. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of development in accordance with the submitted details, one requiring development to be carried out in accordance with the approved plans. Consequently, as plan PL-04 includes details of the materials to be used in the garage's construction, it is not necessary to include a separate condition specifying that the materials should be those shown on this plan.
18. I agree that details of how trees in the vicinity of the garage will be protected during construction is required in the interests of ensuring these features continue to contribute to the character of the area. I agree also that a condition controlling any additional outbuildings or related structures is needed given the possible cumulative effects in this sensitive setting.
19. For the reasons given above and having regard to all other matters raised, it is concluded that the appeal should be allowed.

J Bell-Williamson

INSPECTOR