

Appeal Decision

Site visit made on 22 December 2016

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 20 February 2017

Appeal Ref: APP/R3650/W/16/3156363

Meadfields Farm, Three Gates Lane, Haslemere, Surrey GU27 2LD

- 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 Nick Owen against the decision of Waverley Borough Council.
 - The application Ref WA/2016/0225, dated 21 January 2016, was refused by notice dated 19 May 2016.
 - The development proposed is described as "the existing precast double garage is to be demolished to make way for a new 3 bay oak frame garage. The roof space void is to be used for general storage in order to create a more compact building. Access to the roof space makes good use of the existing slope of the site. The building is to be positioned in the same location as the previous garage although slightly rotated providing easier and more direct access from the existing driveway."
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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 having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the dwelling and surrounding rural area;
 - Whether there are other considerations weighing in favour of the proposal; and
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

3. The Council's Decision Notice sets out two reasons for refusal: the first suggests that the scheme proposed comprises inappropriate development in the Green Belt and that there are no very special circumstances sufficient to justify the proposal; the second refers to impact on the character and appearance of the area.
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4. The National Planning Policy Framework (the Framework) confirms that new buildings should be considered inappropriate within the Green Belt with a number of exceptions. One such exception is the replacement of an existing building providing that the new building is in the same use and is not materially larger than the one it replaces. Although for the same use, the proposed replacement garage would be materially larger than the existing in terms of footprint, scale, height, bulk and mass. Consequently, it would comprise inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt as set out at paragraph 87 of the Framework. In addition, the proposed replacement garage would reduce the openness of the Green Belt in this location, contrary to Policy C1 of the Waverley Borough Local Plan (LP) and the Framework which together and among other things seek to protect the openness of the Green Belt.
5. The existing garage is a utilitarian structure with low pitched roof that does not reflect the character and appearance of the surrounding area. By contrast, the proposed replacement garage would be clad in timber and tiling to match the house, with a pitched roof that better reflects the shape of the roof of the house. As such, the proposed garage would be more attractive than the garage it would replace, such that the design of the replacement garage would better reflect the character and appearance of the rural setting. Whilst larger than the existing building, it would be in the grounds of a very substantial house, such that the proposed garage would remain subservient to it.
6. For these reasons, I consider that the proposed garage would reflect the character and appearance of the existing dwelling and the surrounding area and I find no harm in this regard. As such, the proposed development would comply with Policies D1 and D4 of the LP that seek to protect the character and distinctiveness of the locality and be appropriate to the site in terms of the scale, height, form and appearance.
7. The Framework, together with Policy C1 of the LP, indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I note, in this regard, that since determination of the application, the appellant has secured Certificates of Lawfulness¹ in relation to the erection of detached outbuildings. In particular, one relates to a detached double garage with store and the other, a detached double garage and store with attached car port and a detached log/equipment store. After careful consideration of the dimensions and design of the buildings the subject of the Certificates of Lawfulness, the Council is now of the view that those other considerations amount to very special circumstances sufficient to outweigh the harms identified in their reasons for refusal, subject to the removal of permitted development rights for outbuildings.
8. I have no reason to suppose, based on the information before me, that one or other of the consented buildings, would not be built were the appeal to fail. That represents a fallback position which is a material consideration in this case. Having regard to the position as set out in the Council's correspondence dated 23 November 2016, I am satisfied that buildings would have a

¹ Waverley Borough Council references WA/2016/1930 and WA/2016/1932

significantly larger footprint than the garage proposed in this appeal, with the alternative garage of similar height and the replacement log store significantly taller than the existing. On that basis, they would have a greater impact on the openness of the Green Belt, a consideration to which I afford considerable weight. Given the lesser impact on Green Belt openness, the appeal scheme is to be preferred to implementation of the fallback positions. On that basis, I agree with the Council that, in principle, this could be an other consideration of sufficient weight to clearly outweigh the harm in terms of inappropriateness, demonstrating very special circumstances necessary to justify the development proposed.

9. However, given the justification for coming to the view that I do (namely that the appeal scheme is to be preferred to the developments the subject of the Certificates of Lawfulness in terms of its lesser impact on the openness of the Green Belt) it is necessary to ensure that those permitted schemes are not built out and that permitted development rights relating to the erection of curtilage buildings are removed. Although the Council initially suggested a condition to that end, such a condition would not be engaged until such time as the development the subject of any planning permission pursuant to this appeal was commenced. Without any mechanism, such as a planning obligation under Section 106 of the Town and Country Planning Act 1990, to ensure that those permitted development rights could not be exercised, the appellant would be at liberty to implement both the planning permission and one or other of the consented schemes. Were that to occur, that would completely undermine the rationale for the grant of the planning permission.
10. I contacted the parties on a without prejudice basis for their views on this matter. Whilst the Council now considers a planning obligation to be necessary, the appellant is of the view that the wholesale removal of permitted development rights is excessive given the comparison with the fall-back position and considers a legal agreement to remove those rights to be unnecessary. Be that as it may, no lesser alternative is before me for consideration. On balance therefore, in the absence of any means to prevent the implementation of both the garage the subject of this appeal and either of the consented schemes, I am of the view that the other considerations in this case do not outweigh the harm to the Green Belt by reason of inappropriateness.
11. For the above reasons and taking into account all other matters raised I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR