
Appeal Decision

Site visit made on 4 May 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 23 May 2017

Appeal Ref: APP/V1505/D/17/3171023

Grey Gables, Glebe Road, Ramsden Bellhouse, Billericay CM11 1RJ

- 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 Neil De'Ath against the decision of Basildon District Council.
 - The application Ref 16/00949/FULL, dated 21 September 2016, was refused by notice dated 12 December 2016.
 - The development proposed is described as 'retrospective consent for car port'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a car port at Grey Gables, Glebe Road, Ramsden Bellhouse, Billericay CM11 1RJ in accordance with the terms of the application, Ref 16/00949/FULL, dated 21 September 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Grey Gables.

Procedural matters

2. The description in the application refers to the development as retrospective. However, this is not an act of development. I have therefore amended the description to refer to the operational development of the erection of the car port in my formal decision. I do however note that the building the subject of this appeal was in place at the time of my visit.
3. The application form has been redacted and the date of the application is not readily visible. The appeal form and decision notice however refer to the application as being made on 21 September 2016 and this is not an issue at this appeal. I have therefore taken this as the appropriate date in my banner heading above.

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 relevant development plan policies;
 - The effect on the openness of the Green Belt; and
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- 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

Is the development inappropriate development in the Green Belt?

5. The Council have not directed me towards any Development Plan policies but have relied upon the National Planning Policy Framework (The Framework). The Council has identified that part of the site lies within the Green Belt notation on the proposals map of the Saved Basildon District Local Plan, including where the car port is located. The appellant does not dispute that the development falls within the Green Belt. I have considered the appeal on this basis.
6. The Framework advises that the construction of new buildings in the Green Belt should be regarded as inappropriate unless they fall within a closed list of exceptions set out at paragraph 89. Certain other forms of development are also not inappropriate if they fall within the list set out at paragraph 90. The development subject of this appeal is a new building which is described, by the appellant, as being for uses ancillary to the residential property with which the building is associated and whose plot it is located in. The paragraph 90 exceptions therefore do not apply.
7. The appellant accepts that the building does not neatly fall into any of the acceptable uses referred to in paragraph 89 it is suggested that it does have some benefit to land management for forestry and nature and it is an extension to the floor area of the house. The building is promoted as an ancillary building to the residential property with which it is associated it is therefore not a building for forestry or agriculture and it therefore does not fall within this exception. The building is significantly separated from the main residential property in terms of both distance and visibility. Whilst it may be ancillary additional accommodation for the residential property it cannot reasonably be said to be an extension or alteration of that building. On this basis I am satisfied that the car port would not fall within any of the exceptions set out in paragraph 89.
8. On this basis I conclude that the proposal would be inappropriate development in the Green Belt. Paragraph 87 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on openness

9. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, paragraph 79.
10. Openness has both a spatial and visual aspect as has been confirmed in recent case law¹. The building that has been erected encloses space and has been erected on an area where there was no built form previously. In this regard the building would reduce the openness of the site. Whilst it is screened to some extent by fencing and landscaping this does not totally obscure views of the structure. In both spatial and visual terms the building would result in a

¹ Turner v SSCLG & East Dorset Council

reduction in the openness of the site. The screening will to some extent reduce this impact, but not remove it. I therefore attach moderate harm to the impact on the openness of the Green Belt resultant from the development. Paragraph 88 in the Framework advises that substantial weight is given to any harm to the Green Belt. Therefore, although the effect is moderate this is to be given substantial weight.

Other considerations

11. The appellant has identified a number of other considerations that I should have regard to in my consideration of this appeal.
12. Firstly it is suggested that there is a significant fallback position. It is argued that the existing building falls within the Permitted Development rights for the property with the exception of the fact that the building is set to close to a boundary. In this case the building would fall within the dimensions for Permitted Development where the building set 2m off the boundaries. However the building as presently located is some 1.4m off the boundary. It is therefore not Permitted Development. The Council have concluded the development is not permitted development as it breaches the criterion in Class E permitted Development rights.
13. The corollary of the limited breach of the Permitted Development Right is that should permission be refused the appellant could move the building the minor distance and it would then become Permitted Development and not require an express grant of planning permission.
14. The appellant has indicate that there is a need for the equipment and supplies that are presently accommodated in the existing building and the consequence of removing the building would either be that these element were left as open storage which would be untidy or a building would be required in which to keep them.
15. The Council accept that the condition which restricts permitted development in the garden would not preclude a structure in this location as this is outside the 86m distance of the highway referred to in the restrictive condition attached to the permission that changed the use of this area of land to garden land.
16. The appellant also contends if a new building were to be erected with similar dimensions in a location that would be the required distance from the boundary to ensure it was permitted development this would move the building to a more prominent location and would have a more harmful effect on the visual aspect of the openness of the Green Belt and become more visually prominent and thereby have a greater impact on the character and appearance of the area.
17. I attach considerable weight to the fallback and Permitted Development arguments and agree that the discreet positioning of the building presently would be less harmful on the character and appearance of the area and the openness of the Green Belt, than a relocated building. This is also true of the material and machinery stored in the building which would otherwise be left as open storage.
18. The appellant further contends that the appearance of the building is reasonable and appropriate for its function and purpose that the materials and position assist in integrating the development into the site and given the size

and scale of the site the building is of a reasonable size and scale. I agree with these conclusions.

Green Belt balance

19. I attach substantial weight to the harm to the Green Belt by virtue of the fact the car port is inappropriate development and the harm it has to the openness of the Green Belt, as I am required to do. Against this harm I weigh the fallback position of a building with similar dimensions, height and size, being erected under permitted development in a more exposed location and the benefits associated with the covered and contained storage of materials and machinery necessary for the upkeep of the property and grounds to which I give considerable weight. In my view the benefits clearly outweigh the harm that arises from the existing building.
20. These considerations may not be unique and similar circumstances may arise elsewhere but that does not prevent a finding of very special circumstances.
21. I find in this case that the other considerations clearly outweigh the harm that I have identified and that, looking at the case as a whole, I consider that very special circumstances exist which justify the development.

Overall conclusions and conditions

22. The Council have not identified any conditions that are required in respect of the development. Given that the building is in place a time limit or approved plans condition are not necessary. The appellant has suggested a condition restricting residential occupation of the building would be acceptable to alleviate any concerns the Council may have in this regard. However, the nature of the construction, design and layout of the building are such that it would not be easily converted. Moreover any independent residential occupation of the building would require planning permission. I do however accept that the ancillary nature of the building to the property is an important aspect, and that the building is not being erected under Permitted Development therefore I have imposed a condition requiring that the building is used for purposes ancillary to the occupation of Grey Gables with which it is associated.
23. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR