

Appeal Decision

Site visit made on 16 July 2019

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 August 2019

Appeal Ref: APP/J1915/D/19/3227769

12 Waterford Common, Waterford, SG14 2DQ

- 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 D Stay against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/2763/HH, dated 18 December 2018, was refused by notice dated 13 February 2019.
 - The development proposed is erection of outbuilding to provide double garage and annexe with office on first floor.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are five main issues. Firstly, whether the proposed outbuilding would amount to inappropriate development in the Green Belt; secondly, the effect of the proposed outbuilding on the openness of the Green Belt and its visual amenity; thirdly, the effect of the outbuilding on the character and appearance of the area, including the setting of the listed Willow Cottage; fourthly, whether the proposed outbuilding would result in an unacceptable increase in flood risk; and fifthly, if the proposed outbuilding would amount to inappropriate development, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, such as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

3. Waterford Common is a narrow lane which lies in the Green Belt. It has a ribbon of dwellings on its western side. The appeal property is accessed via a driveway at the end of the lane and is physically and visually separate from the other dwellings. It is set on lower ground and is surrounded by open countryside. To the west are open views towards a riverside footpath and recreational route and a church.
 4. The proposed outbuilding would be a large structure with a footprint of some 12m by 8m. It would have a hipped roof with four dormer windows and a ridge height of about 6m.
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5. Policy GBR1 of the East Herts District Plan (LP), 2018, states that planning applications within the Green Belt will be considered in line with the provisions of the National Planning Policy Framework (NPPF). The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 states that the construction of new buildings should be regarded as inappropriate except in a limited number of circumstances such as the limited extension of a building or the replacement of a building provided the replacement is of similar size and in the same use.
6. It is understood that a smaller outbuilding was demolished some years ago but there is no evidence of its location or appearance and limited details of its scale. The proposed outbuilding could not, therefore, be deemed to be a replacement and is in any case significantly larger. The Council has considered the proposed outbuilding as an extension to the host dwelling, Willow Cottage. However, that has already been substantially enlarged and in any case the distance between the dwelling and the proposed outbuilding is such that in my view it could not reasonably be considered as an extension. The exceptions set out in paragraph 145 do not therefore apply in this case.
7. It is concluded on the first main issue that the proposed outbuilding would result in a new building in the Green Belt and would amount to inappropriate development. The NPPF advises that substantial weight should be given to any harm to the Green Belt, including that by reason of inappropriateness.

Openness of the Green Belt and its visual amenity

8. The NPPF states that the essential characteristics of Green Belts are their openness and permanence. The proposed outbuilding would be a large structure on a currently undeveloped site and although single storey the pitched roof and dormers would add volume and bulk. The proposal would therefore materially erode the openness of the Green Belt in this location.
9. The site is prominent in views from the surrounding area which is open and undeveloped. The building would in part be screened by trees and hedgerows. However, to the west there are open views towards the river and church and to the north the building would be visible from the long gardens and paddocks behind other dwellings in Waterford Common. The introduction of the proposed building would therefore be readily apparent from a number of vantage points and would intrude into the substantially undeveloped landscape. This would harm the visual amenity of the Green Belt and conflict with one of the purposes of Green Belts which is to safeguard the countryside from encroachment.
10. It is concluded on the second main issue that the proposed outbuilding would materially harm the openness of the Green Belt, resulting in encroachment of the countryside, and would detract from its visual amenity. This harm attracts moderate weight.

Character and appearance including the setting of Willow Cottage

11. The proposed outbuilding would lie within the grounds of Willow Cottage, an attractive, Grade II listed dwelling with a steeply pitched thatched roof, ground floor accommodation and rooms within the roof space at first floor. The cottage is modest in size and this is emphasised by its scale and design and by its location on low lying land within the plot. The proposed outbuilding would be clearly visible on entering the site and would be seen together with Willow

Cottage. Its design and in particular the openings and roof dormers would give it the appearance of a modern chalet bungalow whilst its scale and location would draw attention away from Willow Cottage. Overall, it would appear as an incongruous addition to the site, competing with Willow Cottage, detracting from its importance as the primary building and intruding into its rural and undeveloped setting.

12. The appellant argues that in 2015 the Council suggested that a similar building would be respectful of the setting of the listed building but in my view and in the context of up to date policy and law relating to heritage assets I consider that the proposed outbuilding would cause harm, albeit less than substantial harm, to the setting of Willow Cottage. The NPPF advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In the case of less than substantial harm, this should be weighed against the public benefits of the proposed development. In this case there do not appear to be any public benefits.
13. The Council also refers to LP Policy HOU13 which relates to residential annexes and suggests that the scale of the proposed building would dominate the existing dwelling and provide more than the minimum level of accommodation required. However, only about half of the ground floor would provide a residential annexe and this would comprise a bedroom, bathroom and combined kitchen and living area. Although room sizes would be fairly generous I do not consider that the accommodation would be excessive, especially taking account of the needs of a range of potential occupiers which may include the need for accessible accommodation. Therefore, although the building overall would be incompatible with the location and detrimental to the setting of the listed building, I do not find that the annexe element would be excessive. Conflict with Policy HOU13 would therefore be limited.
14. It is concluded on the third main issue that the proposed outbuilding would have a materially harmful effect on the character and appearance of the area and in particular on the setting of Willow Cottage. In consequence, it would conflict with LP Policy HA7 and the NPPF which, taken together resist development that would have an adverse effect on a listed building or its setting unless the harm is outweighed by the public benefits of the development.

Effect on flood risk

15. The proposed outbuilding lies within Flood Zone 3b. This is the functional flood plain defined in the Council's Strategic Flood Risk Assessment. Although the appellant has submitted a Flood Risk Assessment demonstrating that the location of the proposed outbuilding would be outside the 1 in 20 (functional flood plain) flood risk extent, as well as outside the 1 in 100 year +35% and 70% climate change allowance extent the Environment Agency has stated that it is not in a position to remove its objection. Notwithstanding the FRA, I cannot therefore be satisfied that the development would not have an adverse effect on the risk of flooding and a precautionary approach is necessary.
16. It is concluded on the fourth main issue that the proposed development would introduce a more vulnerable form of development into the defined flood zone 3b (functional flood plain) and in consequence would be contrary to LP Policy WAT1 which seeks to protect the functional flood plain from inappropriate development and in particular ensure that new development does not increase

the likelihood or intensity of any form of flooding nor increase the risk to people and property, both on site and further downstream.

Other considerations

17. The appellant draws my attention to one other consideration which he considers might amount to the very special circumstances necessary to justify the proposal. In 2011 planning permission was granted for an outbuilding comprising a triple garage and storage area that was located in the same location and had the same footprint as the building now proposed. That building was to be a replacement for a smaller building which was demolished in 2013. At the time of a previous appeal (APP/J1915/D/3134245) determined in January 2016 there was no evidence that the 2011 permission was extant and it was assumed that it had lapsed. Subsequently, in 2017, the Council issued a Lawful Development Certificate (LDC) confirming that the 2011 permission had been implemented and was extant. Therefore permission exists for a similar sized outbuilding at the appeal site.
18. Nevertheless, openings in the permitted building would be limited to three garage doors and there would be no roof dormers, limiting its bulk and giving it the appearance of a large but simple ancillary building that would not look out of place in its rural location. The proposed building would have a significantly different character and appearance. In particular the multiple openings, including patio doors and four roof dormers, would give it a modern, domestic appearance that was at odds with its setting and the setting of the listed Willow Cottage. Moreover, its use as an annexe and for offices would result in a noticeable increase in activity in and around the building. This would further emphasise its presence and habitable character, compounding its incongruous appearance nature. Overall I consider that, notwithstanding the similar size, it would not be readily comparable with the permitted outbuilding. I therefore give this matter moderate weight.
19. It is concluded on the fifth main issue that the other consideration drawn to my attention would be insufficient clearly to outweigh the harm that would be caused to the Green Belt by reason of inappropriateness, which carries substantial weight, the additional harm to the openness and visual amenity of the Green Belt, detriment to the character and appearance of the area and the setting of Willow Cottage and the potentially adverse effect on flood risk. The very special circumstances necessary to justify the development do not therefore exist and the proposed outbuilding would conflict with national policy set out in the NPPF and with LP Policy GBR1.
20. For the reasons set out above and having regard to all other matters raised, including the representations of third parties, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR