
Appeals Decisions

Site visit made on 18 September 2019

by D A Hainsworth LL.B(Hons) FRSA Solicitor

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal A: Ref: APP/M3645/C/18/3210189

Land at The White House, Moor Lane, Dormansland, Lingfield, Surrey RH7 6NX

- Appeal A is made by Martin Holder under section 174 of the Town and Country Planning Act 1990 against an enforcement notice (ref: ENF/2017/92) issued by Tandridge District Council on 26 July 2018.
 - The breach of planning control alleged in the notice is "the erection of a detached four bay garage to the south west of the dwelling in the approximate position and hatched black on the attached Plan B".
 - The requirements of the notice are as follows: -
 - "1. Demolish the four bay garage building and remove the concrete base.
 - 2. Permanently remove from the land to an approved place of disposal all materials arising from those works"
 - The period for compliance with these requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g). Since the appeal has been brought on ground (a), an application for planning permission is deemed to have been made by section 177(5) in respect of the matters stated in the notice as constituting a breach of planning control.
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Appeal B: Ref: APP/M3645/W/18/3206332

Land at The White House, Moor Lane, Dormansland, Lingfield, Surrey RH7 6NX

- Appeal B is made by Martin Holder under section 78 of the Town and Country Planning Act 1990 against a refusal by Tandridge District Council to grant planning permission.
 - The application Ref TA/2018/319, dated 14 February 2018, was refused by notice dated 8 May 2018.
 - The development is a "detached barn style garage". This is the same development as the garage described in the enforcement notice.
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Decisions

Appeal A: Ref: APP/M3645/C/18/3210189

1. It is directed that paragraph 5 of the enforcement notice be varied by (i) replacing "3 months" by "6 months" in the first sentence, (ii) replacing "remove the concrete base" in sub-paragraph 1 by "remove from the Land the part of the concrete base that is not within the curtilage of the dwellinghouse" and (iii) deleting sub-paragraph 2.
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2. Subject to this direction, the appeal is dismissed, the enforcement notice is upheld as varied and planning permission is refused on the application deemed to be made by section 177(5) of the Town and Country Planning Act 1990.

Appeal B: Ref: APP/M3645/W/18/3206332

3. The appeal is dismissed.

Reasons for the decisions

Appeal A, ground (a), and Appeal B

4. The garage is in the Green Belt and the main issues in deciding whether planning permission should be granted for its erection are as follows: -
 - (i) Whether its erection constitutes inappropriate development in the Green Belt for the purposes of the Tandridge Local Plan Part 2: Detailed Policies 2014 - 2029 ("the Local Plan") and the National Planning Policy Framework 2019 "(the Framework)".
 - (ii) Its effect on the openness of the Green Belt and on the character and appearance of its surroundings.
 - (iii) If it does constitute inappropriate development in the Green Belt, whether the harm by reason of its inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, does this amount to the very special circumstances required to justify its erection?
5. Local Plan Policy DP14 indicates that new garages will be permitted in the Green Belt within the curtilage of dwellings, provided four criteria are satisfied. These are that they: "1. Do not constitute a dominant feature and are not excessive in size having regard to the size of the dwelling they are to serve; 2. Do not detract from the rural character or appearance of the locality; 3. Are not to replace any existing garage that has been converted to residential use; and 4. Will not be used for any purpose which is not incidental to the enjoyment of the dwelling".
6. The questions that arise in relation to this policy are whether the garage is within the curtilage of the house and whether the garage detracts from the rural character or appearance of the locality, contrary to criterion 2. Criterion 1 has been met, since the garage is not dominant or excessively large having regard to the size of the house. Criterion 3 is not applicable, because the conversion of the integral garage at the house to residential use took place many years ago with planning permission (ref: 80/480R) and the permission also authorised the erection of a new detached garage. There is no indication that Criterion 4 may not be met; the garage was in use for incidental purposes at the time of the site visit.
7. The garage has been erected on a site that is partly within the garden of the house and partly within a field adjoining the garden. Planning permission has not been granted for the change of use of the part within the field to residential use. The appellant accepts that this part is not within the curtilage of the house. Positive efforts have been made to design a garage that has a pleasing traditional appearance and to lower its profile in the part within the field, but because it projects into the field where there was previously boundary

- vegetation and because it looks intrusive from the public footpath and from the roadside to its west, it has detracted from the rural appearance of the locality. The garage is therefore in conflict with Policy DP14, because part of it is not within the curtilage of the house and Criterion 2 has not been satisfied.
8. Since the garage does not conform to Policy DP14, it falls to be considered in relation to other Green Belt policies. Local Plan Policy DP13 and paragraph 145 of the Framework deal with buildings in general in the Green Belt. They indicate that their construction will be regarded as inappropriate unless they are within a list of exceptions, none of which is sufficiently wide-ranging to include this garage. In reaching this conclusion, I have considered, in particular, whether the garage could be treated as a replacement building or as the redevelopment of previously-developed land, as described in the policies. While there have in the past been other buildings on land here, it has not been shown that the garage is a replacement for any of them, within the terms of the policies. Although residential gardens not in built-up areas are not excluded from the definition of previously-developed land, redevelopment related to them should be contained within the residential curtilage and should not have a greater impact on the openness of the Green Belt than existing development.
 9. Both the Local Plan and the Framework declare that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When planning applications are considered, substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
 10. Harm to the Green Belt arises in this instance because of the visual impact part of the garage has had on the openness of the field and because part of it encroaches into the countryside. For the same reasons, this part is harmful to the rural character and appearance of its surroundings, which is contrary to Policy CSP 18 of the Tandridge District Core Strategy and paragraph 170.a) of the Framework. The harm is significant because of the width and prominence of the rear of the garage and the extent of the encroachment.
 11. I turn now to whether considerations arise in this instance that might outweigh the harm I have identified. The appellant has put forward some considerations that I have already taken into account above. There are two remaining of any significance. Firstly, the appellant indicates that the garage should be treated as "sustainable development" for the purposes of the Framework, because of the quality of its design and the materials used. I agree with his assessment of the design and the materials, but the garage cannot constitute "sustainable development" when it is in conflict with Green Belt policies. Secondly, the appellant believes that he was advised by the Council's planning department in a telephone conversation that the garage would be permitted development. As a result he incurred significant expenditure on the erection of the garage. The planning department have no record of this conversation. It seems likely that there was a failure during this conversation to achieve an adequate mutual understanding of all the circumstances of the proposed development.
 12. I have taken careful account of all the considerations that have been put forward in these appeals, but in my opinion they are not substantial enough to

outweigh the harm identified in paragraph 10 above. The very special circumstances required to justify inappropriate development in the Green Belt do not exist. I have concluded that planning permission for the garage should be withheld in order to preserve the openness of the Green Belt, to safeguard the countryside from encroachment and to preserve the rural character and appearance of the locality.

13. The appeal on ground (a) and the appeal against the refusal of planning permission have therefore failed.

Appeal (a), ground (f)

14. I have varied Requirement 1 because the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse as such is permitted development. This requirement, as varied, is sufficient on its own to remedy the breach of planning control and the injury to visual amenity that have been caused. Requirement 2 has been deleted because the building materials remaining after compliance with Requirement 1, as varied, would be mainly timber and roof tiles which could be stored within the extensive gardens of the house without causing harm to the Green Belt or to visual amenities.

15. The appeal on ground (f) has therefore succeeded to this extent.

Appeal (a), ground (g)

16. I have agreed to the appellant's request for a six months' compliance period, since the three months allowed by the notice is too short. More time is needed to allow the appellant to find a buyer for the garage or to consider with the Council whether it could be re-erected in a suitable position within the curtilage of the house.

17. The appeal has therefore succeeded on ground (g) to this extent.

D.A.Hainsworth

INSPECTOR