



Appeal Decision

Site visit made on 12 August 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 16 October 2019

Appeal Ref: APP/J1915/W/19/3230496 32 Ermine Street, Thundridge SG12 0SY

- 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 Mrs Susan Daniel against the decision of East Hertfordshire District Council.
 - The application ref 3/19/0622/HH, dated 21 March 2019, was refused by notice dated 16 May 2019.
 - The development is for construction of a new timber framed and weathered boarded structure for use as a garage and barn.
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Decision

1. The appeal is allowed, and planning permission is granted for construction of a new timber framed and weathered boarded structure for use as a garage and barn in accordance with the terms of the application reference 3/19/0622/HH, dated 21 March 2019 and in accordance with the following approved plans: Location 01; Site Plan 01; Block Plan 01 and Proposed 01.

Procedural Matters

2. During my site visit it was apparent that the appeal structure had already been constructed.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt and the purposes of including land within it;
 - the effect of the proposal on the heritage assets;
 - if it is inappropriate development, whether the harm 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 the development.

Reasons

Whether Inappropriate Development in the Green Belt

4. The National Planning Policy Framework¹ (the Framework) sets out, at Paragraph 145, that other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. Policy GBR1 of the East Herts District Plan 2018 (District Plan) states that planning applications in the Green Belt will be considered in line with the provisions of the Framework. Under paragraph 145 (d), a replacement building in the same use and not materially larger than that replaced is not considered inappropriate. The appellant considers this exception applies.
5. On 2 July 2018 Listed Building Consent² (LBC) was granted to demolish a dilapidated building on the site. Within the submitted Design and Access Statement the building was described as *"turkey sheds currently used partially as car ports"*. The building was situated directly to the west of the appeal building and photographs show this being used as a car port. Two subsequent applications for a replacement do not refer to the building's previous use.
6. The Council considers the appeal building inappropriate believing it to be associated with a change of use of land previously used for agriculture. However, no evidence has been provided to substantiate this view. They also consider the building is outwith the curtilage of the dwelling. However, the appellant states that when sold, the land was separated into two plots with the access road, outbuilding and private garden sold with the house. This is consistent with my observations during the site visit. Although there is a small fence around the private garden at the front of the dwelling there is access directly from this area to the drive. The area around the appeal building appears to function as an integral part of the dwelling and the driveway itself is fenced off from the adjacent community orchard. Also, when the drive front gate is closed, the garden area is further opened up on to the drive. This view is further supported by the plan which accompanied the application for LBC which shows the drive within the site boundary.
7. The planning use of the building has been described by the appellant as turkey sheds, and the description within the application for the current building states the use as garage and barn. There is some evidence to support the recent use of the demolished building as a car port within a letter from the previous owner's family. This states that the building was constructed by her father in the 1960s and was not in agricultural use. However, this goes on to say that it was only used as a car port after 1968. There is however, no evidence to conclude that the buildings were not originally constructed as turkey sheds. I therefore consider the use as garage to be different from their original function.
8. The appeal building is within the curtilage of the dwelling and I have no certainty that the land is or was agricultural in nature. Despite this, no evidence has been provided to suggest that the original use in planning terms was not, as per the appellant's own initial description, as turkey sheds. Use as a garage is therefore different from the original use. Furthermore, I do not consider that any of the remaining exceptions within paragraph 145 apply to this development. Consequently, I find that the construction of the building

¹ National Planning Policy Framework, February 2019.

² Application ref 3/18/1061/LBC.

constitutes inappropriate development in the Green Belt, which according to paragraph 143 of the Framework is, by definition, harmful. This would therefore conflict with Policy GBR1 of the District Plan.

Openness

9. The part of the drive closest to the highway is ungated. There is a wide access gate further along the drive, set back from the road and level with the rear wall of the terrace. There is a smaller pedestrian gate leading from the open part of the drive to the front door. Once through the large access gate the drive widens and leads to a more open area. The garage which is the subject of this appeal sits in the bottom right corner of the drive area. A community orchard sits to the north east of the property being fenced from and accessed via a gate from the drive. This is confirmed by a sign adjacent to the highway which displays the orchard opening hours and indicates that the access road is a private driveway.
10. The main parties agree that the previous structure on the site measured around 12m long, 4.2m deep and 1.8m high with photographs provided to verify its position and condition. The current building has a rear sloping roof and is constructed from dark coloured timber boards. It has one single and one double set of doors and measures approximately 8m long, 5.2m deep and 2.4m high. It is smaller than the building it replaces and is set within the less conspicuous bottom corner of the appeal site further from the road than the demolished buildings and partly screened by trees and shrubs. Cars currently use the drive and a garage in this position would not cause any additional impact upon openness with regard to vehicle use. The new structure before me has a lesser effect upon the openness of the Green Belt than those previously present. For these reasons, this proposal would also not conflict with Policy DES4 of the District Plan which seeks that proposals reflect local distinctiveness.
11. Had the proposal preserved the openness of the Green Belt, this would have been a neutral factor within my assessment of this appeal. However, this proposal, when taken as a whole, has had an overall beneficial impact upon the openness of the Green Belt when compared with the previous building due to its smaller size and less conspicuous position. The current situation has opened views down the drive and towards the community orchard beyond, particularly as seen from the highway. This view was previously constrained by the presence of the dilapidated buildings which were in a more prominent position closer to the highway. These changes weigh in favour of the proposal.

Effect upon the heritage assets

12. The appeal site is within Wadesmill Conservation Area (CA). The dwelling, accessed from the rear of the terrace via a pebbled side driveway, is a two storey, brick built end terrace property. Due to its historical significance as a model estate house it is Grade II listed. The site currently makes a positive contribution to the character and appearance of the CA providing a setting for the listed building allowing views down the drive towards the open space beyond. Due to the presence of the heritage assets, development must be considered within the context of S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay particular attention to the desirability of preserving or enhancing the character and appearance of the CA. As the property is Grade II listed, I must also have regard to Section 66(1)

of the Act which requires me to pay particular attention to the desirability of preserving a listed building or its setting.

13. The traditional style, colour and materials used for the new garage do not detract from either the CA or the setting of the listed building. Its position at the bottom of the drive is discrete and it replaces a building which had a greater mass and dilapidated condition. The Council's conservation section considers the garage to have a neutral effect upon the character and appearance of the CA, and upon the setting of the listed buildings. From my own observations I concur with this view. The site is within an Area of Archaeological Significance and technical advice from the archaeological section states that the building would be unlikely to have a significant impact on the archaeological interest.
14. Paragraph 193 of the Framework 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. The proposal preserves and enhances the setting of the listed building. As the effect of the proposal on the CA and the setting of the listed building is neutral, it does not conflict with this policy or Policies HA1 and HA7 of the District Plan. Together these policies seek that development preserves and/or enhances the historic environment. In terms of the effect of this upon the Green Belt, this represents a neutral factor.

Other considerations

15. The main parties agree that the previous building was in a dilapidated condition. The replacement structure is smaller than that demolished and situated towards the rear of the drive. This combination of factors has had a beneficial effect upon the openness of the Green Belt. This is particularly seen when viewed from the highway with open views now present both towards and from the orchard. Despite its historical use, the previous structure had been used recently as a car port thus no new incongruous vehicular use has been introduced into the Green Belt.
16. The replacement before me has been constructed from a sympathetic palette of materials and its presence has a neutral effect upon the heritage assets. The proposal, when taken as a whole, considering both the demolition of the previous structure and construction of the new garage, is likely to have improved the setting of the heritage assets. These were previously in close proximity to dilapidated buildings which were visible within the CA and represented a negative element with respect to those heritage assets.
17. The circumstances surrounding the construction of this building, combined with the poor condition of the previous structure which would have detracted from the appearance of the Green Belt, CA and setting of the listed building, are all mitigating circumstances which are afforded substantial weight within this decision.

Green Belt Planning Balance

18. I have found that the development is inappropriate within the Green Belt and I give this substantial weight. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that all development must preserve this openness. However, when considering the condition of the previous building, the demolition and replacement with a

smaller, less conspicuous structure of sympathetic design and materials, the development has improved the openness of the Green Belt and I give this substantial weight. I have also found that the other considerations with respect to the positive effect of the development when taken as a whole on the heritage assets is a positive factor within this decision which is also afforded substantial weight. The development's harm by reason of its inappropriateness is outweighed by its positive impact upon the openness of the Green Belt in combination with the other considerations. This amounts to the very special circumstances necessary to justify the development. For the above reasons, the proposal would not conflict with the District Plan or the Framework when these policies are taken as a whole.

19. The appeal is therefore allowed.

E Symmons

INSPECTOR