



Appeal Decision

Site visit made on 28 January 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Wednesday, 19 February 2020

Appeal Ref: APP/J1915/D/19/3241636

Folly Cottage, Bury Green, Little Hadham SG11 2ES

- 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 Martin Gay against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1726/FUL, dated 21 August 2019, was refused by notice dated 16 October 2019.
 - The development proposed is the erection of a detached garage and associated hardstanding.
-

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 (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt;
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

3. The appeal site consists of a detached dwelling located within the small settlement of Bury Green and is located within the Metropolitan Green Belt. The proposed development would be a detached garage, sited on part of the garden area to the west with associated hardstanding. Mature trees and hedges screen the site to the north and west with open countryside to the south and east.

Inappropriate development in the Green Belt

4. The Framework, 2019 sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions. The Framework does not make any specific

- reference to ancillary buildings, but the main parties agree that the proposal could be regarded as a proposed extension to the dwelling as it forms 'a normal domestic adjunct'.
5. The proposed development would be a domestic garage of substantial size which would be located within the garden area to the west of the dwelling. There would be no physical attachment between the proposal and that of the existing dwelling but there would be a visual and functional relationship between them and therefore the garage can be considered to be an extension to the original dwelling. In coming to this view, I have also had regard to the previous appeal decision¹.
 6. Policy GBR1 of the East Herts District Plan, 2018 (EHDP) deals with the Metropolitan Green Belt and advises that planning applications will be considered in line with the provisions of the Framework.
 7. Therefore, as outbuildings are buildings paragraph 145 c) would logically apply to the appeal proposal where an extension or alteration to a building is not inappropriate development provided it does not result in disproportionate additions over and above the size of the original building.
 8. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
 9. The Framework does not define the term of disproportionate. The original dwelling has previously been extended, and the proposed development would add further built development at the site and alone would substantially increase the floor space of the original dwelling. The Council advise, in total with the proposed garage this would be an increase of some 208% above the original dwelling. Therefore, in that regard, the proposed development would not be of a limited scale or a proportionate addition when comparing to the original dwelling.
 10. For the reasons given above, I conclude that the proposed development would be inappropriate development in the Green Belt as a result of a disproportionate addition over and above the size of the original dwelling. As such, it would be contrary to Policy GBR1 of the EHDP, 2018 and the Framework, 2019.

Effect on openness

11. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof being their openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.
12. The proposed garage would be built on garden land to the west of the existing dwelling, it would result in additional built development and the loss of this garden area which would unavoidably result in a reduction of openness of the site.

¹ APP/J1915/D/16/3152784

13. Furthermore, the appeal site is in a slightly elevated position in relation to the surrounding landscape to the south and east. This combined with the open character of the surrounding countryside, particularly that the appeal site can be viewed from along the bridleway means that the proposed garage would be clearly seen from both nearby and distant views. Despite, the proposed copse planting the proposed garage, given its substantial size, massing and prominent position would still be readily visible within the landscape. As a result, it would have a moderate detrimental effect on the open character of the area and would cause a reduction in the openness of the Green Belt.
14. Therefore, I conclude that the proposed development would not preserve, and would have a harmful effect on, the openness of the Green Belt. It would be contrary to Policy GBR1 of the EHDP, 2018 and the Framework, 2019, which aim to protect the openness of the Green Belt.

Other Considerations

15. The appellant has provided evidence that an extant Lawful Development Certificate (LDC) was granted by the Council for a proposed garage², and which would be sited within the garden, directly to the south of the dwelling and would be the same dimensions and materials of which is proposed under this appeal proposal.
16. The appellant asserts that there is a in-principle support for the proposed garage in this location, as the LDC provides a precedent for this type of development in this location and the proposed development would be far less prominent, when viewing from the surrounding context. Furthermore, the appellant contends that the permitted development fallback position of the development granted as part of the LDC is a consideration which equates to very special circumstances that justifies the proposed development within the Green Belt.
17. I acknowledge that, in comparison to the garage granted under the LDC, the alternative location of the proposed development would be desirable, it would be positioned further away from the existing dwelling but would be located closer to the existing copse and further plant coppice-style native trees is proposed, which would partly screen the proposed development. The garage granted under the LDC, would be positioned in-line with the existing dwelling with less screening, although detached it would still be seen more readily in conjunction against the built form of the dwelling, but positioned more prominently in the site. Therefore, the fallback position advanced would have a greater impact on openness.
18. However, no substantive evidence has been provided to persuade me that the appellant would genuinely pursue this fallback option if the appeal failed. Alternatively, if the appeal were to be allowed, in the absence of greater detail it might be the case that such permitted development could potentially be built alongside the appeal development. Therefore, the potential cumulative impact of such development would have a greater adverse effect on the Green Belt.
19. The appellant also contends that there is historical evidence of existing outbuildings at the front elevation of the building, in a similar location where the proposed garage is to be sited and of a similar scale and massing. Whilst

² App Ref: 3/18/1139/CLP

this may be the case, the appellants evidence is inconclusive, particularly that the only reference is a photograph of a conveyance plan from 1969. Furthermore, if there is no building currently existing on site it cannot be assessed whether or not the proposed replacement building would be materially larger than the existing building to be replaced (the baseline), and paragraph 145 d) of the Framework cannot apply as there is no building to be replaced³. Therefore, I can only give this minimal weight.

20. I understand other developments have been granted planning permission by the Council in the area. I have been provided with limited details of them, although there may be some similarities. I also note that there were no objections to the proposed development by local residents or the Council, that it would not detract from the appearance of the existing dwelling or cause harm to the living conditions of the occupiers of nearby properties. However, the absence of harm in these respects weighs neutrally and does not amount to a consideration in support of the appeal.

Conclusion

21. The appeal scheme is inappropriate development in the Green Belt. I have also found that it would not preserve, and would have a significantly harmful effect on, the openness of the Green Belt. 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 proposal, is clearly outweighed by other considerations.
22. Having regard to the other considerations cited in support of the proposal, particularly the extant LDC, I consider that, either individually or cumulatively, they do not clearly outweigh the harm to the Green Belt and any of the other harm, I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
23. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
24. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR

³ *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)