

Appeal Decision

Site visit made on 17 September 2020

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State.

Decision date: 25 September 2020

Appeal Ref: APP/D1915/D/20/3249981

Willow Cottage, 12 Waterford Common, SG14 2QD

- 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 S. Dale against the decision of East Hertfordshire Council.
 - The application Ref 3/19/2500/HH, dated 6 December 2019, was refused by notice dated 3 February 2020.
 - The development proposed is an outbuilding to create a garage and annexe.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) whether the proposal would be inappropriate development in the Green Belt; (ii) the effect of the proposal upon the openness of the Green Belt; (iii) the effect of the development upon the character and appearance of the area including whether it would preserve the setting of the adjoining listed building; (iv) whether the development would lead to unacceptable flood risks and (v) if the proposal is inappropriate development in the Green Belt, whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances to justify the development.

Reasons

Whether inappropriate development

3. The appeal site lies within the village of Waterford, accessed along Waterford Common and is within land designated as Green Belt. It is sited separately from other dwellings. It is within the area surrounding the detached dwellinghouse known as Willow Cottage, a Grade II listed building. The site lies within Flood Zone 3b (Functional floodplain).
4. Policy GBR1 of the East Hertfordshire District Plan 2018 (DP) states that proposed development in the Green Belt will be considered in line with the provisions of the National Planning Policy Framework 2019 (the Framework).

5. Paragraph 143 of the Framework states that *'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'*, while paragraph 145 states that *'a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt'*.
6. Paragraph 145 does however list certain exceptions, including *'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'*.
7. Both parties agree that the proposed development cannot be considered to be an extension to the house because of its distance from it, a conclusion reached by an Inspector when determining an earlier appeal on the site and with which I do not disagree.¹ Therefore, as it is a separate building in the Green Belt, I consider that it does not meet any of the exceptions listed in paragraph 145 of the Framework.
8. The appellant refers to an earlier and extant approval for a triple garage on the same site² and where it is alleged that the Local Planning Authority (LPA) considered that it was not inappropriate development. However, the decision predates the publication and content of the Framework. I have therefore determined the matter on the basis of the latter and upon the merits of the current appeal proposal.
9. I therefore conclude that the proposed development would amount to inappropriate development in the Green Belt and would therefore be contrary to the Green Belt requirements of policy GBR1 of the DP and the Framework. This is a matter to which I afford substantial weight in the planning balance.

Openness of the Green Belt

10. The Framework states that the fundamental aim of Green Belt Policy is to prevent urban sprawl and to keep land permanently open. The proposed development would be a relatively large building and would intrude into a largely open area albeit within the space surrounding the associated dwelling.
11. The appellant considers that when the triple garage was approved in 2011, the LPA concluded that it would not have a material impact on openness. However, the appellant also indicates that at that time the proposed triple garage was being compared to a similar sized building which had existed on the site. The position now is that there is no such building of any kind and the impact of the proposed development on openness must be assessed as a new building on its own merits.
12. I acknowledge the existence of the Lawful Development Certificate (LDC) relating to the triple garage, but it has not been constructed since its approval in 2011 and I am not persuaded that it would definitely be constructed in the future.

¹ APP/J1915/D/19/3227769

² 3/11/1200/FP

13. I conclude therefore that the proposed development would have a moderately adverse impact upon the openness of the Green Belt contrary to the provisions in the Framework.

Character and appearance including the setting of Willow Cottage

14. The proposed development adjoins Willow Cottage, a Grade II listed building, which is a two-storey dwelling with a steeply pitched thatched roof and rooms in the roof space at the first-floor level. It is accessed along its own private driveway and is set in an extensive plot which, while containing areas of shrubs and trees, has large areas of lawns and openness. The landscaped setting contributes very significantly and positively to the setting of the listed building and the character and appearance of the area more generally. The listed building sits openly within its setting, with no distractions or visual competition to an appreciation of its architectural character.
15. The proposed building would be located within the aforementioned setting. It would be a large structure with a very dominant roof. I consider that it would therefore unacceptably compete visually with the listed building by reason of its location, size and roof design and hence would have a harmful effect on its setting.
16. Again, I acknowledge the existence of the LDC for the triple garage on the same site and relating to the planning approval granted in 2011. However, I have no certainty that the triple garage would be constructed. I have considered the appeal proposal and its impact upon the setting of the listed building upon its individual merits. The existence of the LDC, whilst a material planning consideration, does not lead me to reach a different view in respect of these matters.
17. Therefore, I consider that the proposed development would have a materially harmful effect upon the character and appearance of the area by extending into the relatively open area around the listed building, thus failing to preserve its setting.
18. The harm to the setting of the listed building would be less than substantial with reference to paragraph 196 of the Framework and where '*harm should be weighed against the public benefits of the proposal*'. I do not consider that there are any identified public benefits which would outweigh the less than substantial harm.
19. I conclude that the proposed development would be contrary to DP policy HA7 which aims to preserve the settings of listed buildings and would also be contrary to chapter 12 of the Framework.

Flood risk

20. The proposed development lies within Flood Zone 3 and where the proposed residential annexe would introduce a use vulnerable to flood risk. While the appellant refers to a flood risk assessment report submitted regarding an earlier planning application, I have no such flood risk assessment before me. I therefore give significant weight to the objection from the Environment Agency

and find that harm would be caused to occupiers of the annexe from a flood risk point of view.

21. I therefore conclude that the proposed development would be contrary to DP policy WAT1 and to the Framework which seek to limit the risk of flooding to people and property.

Other Considerations

22. The appellant has referred to the medical condition of a family member who needs the care of her family around her and has referred to support from her cardiologist. I do not consider that the proposed accommodation would be excessive or inappropriate in these circumstances. However, I have no information before me to show that the family member could not be accommodated within the existing family home. Therefore, I afford these personal circumstances only limited weight in the planning balance.
23. References have been made to the unsuitability of the access road for more development, but I do not consider that the proposed development, by the limited extra traffic which it might generate, would have a significant and adverse impact on highway safety.
24. It is suggested that the proposed development, if allowed, might be used for commercial purposes. However, I have no evidence to support such a scenario and, in any event, I have determined the appeal based on what is specifically proposed.

Planning Balance and Conclusion

25. I conclude that the substantial weight to be given to the Green Belt harm arising from the proposal would not be clearly outweighed by the aforementioned other considerations sufficient to demonstrate very special circumstances. Therefore, the appeal should be dismissed.

Steven Hartley

INSPECTOR