



Appeal Decision

Site visit made on 16 September 2020

by H Porter BA(Hons) MSc Dip IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 September 2020

Appeal Ref: APP/T0355/D/20/3256257

2 New Elysium Cottage, Green Lane, White Waltham, Maidenhead SL6 3JR

- 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 George Oppenheim against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 20/00362, dated 12 February 2020, was refused by notice dated 27 April 2020.
 - The development proposed is demolition of existing garage and erection of new double garage with gym/home office above.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this appeal are:
 - Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - The effect of the proposal on the openness of the Green Belt; and,
 - If the proposal would be inappropriate development, whether the harm by reason of inappropriateness is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

3. The appeal is located within the open countryside and the Metropolitan Green Belt. Number 2 New Elysium Cottage is a semi-detached, two-storey dwelling that occupies a good-sized plot situated within a wider context of arable fields. Towards the appeal site's boundary with a neighbouring property, Meadow View, stands a modest, detached, single-storey outbuilding. The appeal scheme proposes demolition of this outbuilding and its replacement with a detached double garage with a gym/home office above.
4. The Framework establishes that the construction of new buildings should be regarded as inappropriate in the Green Belt, other than for a limited number of exceptions. Of relevance in this appeal is Framework paragraph 145 d), which

allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Though it pre-dates The Framework, Policy GB2 of the Royal Borough of Windsor and Maidenhead Local Plan (LP) is consistent with it.

5. The Council's case is not predicated on the use of the replacement building; rather that the proposed garage would be materially larger than the existing one. Using the dimensions given in the Officer Report, the existing building is 2.6 metres to its ridge and occupies a footprint of around 19 square metres. The new building would, by contrast, be over double the height and occupy almost three times the footprint.
6. There is no definition in the LP or Framework of what constitutes 'materially larger'. However, in order to be 'not inappropriate', a replacement building must be not materially larger. Considerations of the visual impact of the proposal or any impact on openness are not pertinent to whether a building would be materially larger. Having considered the dimensions of the proposed building and the submitted plans compared with the drawings and what I observed of the existing structure on site, the replacement building would undoubtedly be substantially larger in scale, volume and mass than the existing one. Irrespective of local built context or the openness of the site, the proposed building would be materially larger than the one it replaces; the construction of a new building proposed in this case would not satisfy any of the listed exceptions under Paragraph 145 of the Framework. It follows that the appeal scheme would be inappropriate development in the Green Belt.

Openness

7. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness is an essential characteristic of the Green Belt and that openness is defined by an absence of buildings or other forms of development. Openness has a visual and spatial dimension and is not dependent on public vantages.
8. Irrespective of its positioning proximate to a larger double garage associated with the neighbouring property and the overall good size of the garden, the replacement building would be significantly larger and more intrusive than the one it would replace. The proposal would therefore result in a small loss of openness of the Green Belt.

Other considerations

9. The proposal would be inappropriate development. The Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The appellant has sought to justify the proposal through very special circumstances relating to three unimplemented permissions as a 'fallback' and how the site could be developed in an alternative way. Three separate Certificates of Lawfulness (Certificates) have been granted by the Council, which relate discretely to: a triple garage; a detached home office/gym; and a detached workshop. A Certificate of Lawfulness involving construction of all independent structures together was, however, refused.
10. The appellant maintains that the construction of the three separate outbuildings that have been granted Certificates would have a considerably greater impact on the openness of the Green Belt than the appeal scheme.

However, the Council casts doubt over whether the three structures could lawfully be erected collectively. If they were constructed concurrently, the three buildings would, the Council concedes, occupy a greater overall footprint than the proposal. However, as each would be just single-storey in height, the overall scale and mass would not be as great. In relation to position on the plot, the single-storey structures would follow a linear stretch, roughly in line with the main dwelling, whereas the appeal building would be closer to the neighbouring garage. Neither location would, in my view, create a demonstrably lower impact on Green Belt openness than the other.

11. It is argued that the 'high quality rural architecture' of the proposal should weigh heavily in its favour. Although I accept that the design and materials of the development would be in keeping with the site and surroundings, its form, appearance and fenestration, would be typical of many domestic outbuildings. I have limited information as to why the facilities the proposed development would provide are required by the appellant. I appreciate there would be enhanced living and working accommodation at the appeal site, this carries limited weight in consideration of very special circumstances. Nor does the absence of harm in relation to neighbours' living conditions or the support from interested parties.
12. The appellant has indicated a willingness to accept a condition that would restrict Class E Permitted Development Rights. I am unconvinced however that such a condition would meaningfully prevent the construction of the structures that have already been granted a Certificate. Whilst the appellant may not want to implement both the appeal scheme and the Certificate buildings, the permissions would run with the land and could therefore feasibly be implemented in the future.
13. Moreover, the Government's Planning Practice Guidance (PPG) states that permitted development rights should only be withdrawn in exceptional circumstances. There is nothing in the Framework to indicate that these apply to development in the Green Belt. Therefore, I do not consider the appeal proposal justifies the exceptional circumstances whereby permitted development rights should be restricted.

Conclusions

14. The appeal proposal would be inappropriate development in the Green Belt and would lead to some, albeit slight, harmful effect on openness. There would be no other harms that weigh against the development, including in respect of character and appearance or living conditions. The sum of other considerations that weigh in favour of the development, including in respect of alternative forms of development, do not carry sufficient weight so as to clearly outweigh the harm to the Green Belt. Very special circumstances do not therefore exist that justify the harm. The proposed development therefore runs contrary to the relevant development plan policies and the Framework, insofar as they seek to protect Green Belt land.
15. For the reasons given, and having considered all other matters raised, I conclude that the appeal should be dismissed.

H Porter

INSPECTOR