The Planning Inspectorate

Appeal Decision

Site visit made on 2 October 2020

by Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14th October 2020

Appeal Ref: APP/L3625/D/20/3250806
Petridge Wood Farm House, Woodhatch Road, Redhill, Surrey RH1 5JJ

- 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 Richard Smellie against the decision of Reigate & Banstead Borough Council.
- The application Ref 20/00109/HHOLD, dated 15 January 2019, was refused by notice dated 16 March 2020.
- The development proposed is for the erection of a single storey, detached, double garage.

Decision

1. The appeal is dismissed.

Main Issues

2. The Council has indicated that the overall design, siting behind a hedgerow and appearance of the proposed double garage are acceptable. On this basis, and given that the appeal property is located within the Metropolitan Green Belt, the main issues in this case are as follows:

    - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and any relevant development plan policies;

    - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

3. The appeal property is a large suburban house set in substantial gardens and served by way of two access points and linking looped driveway leading off a private lane that serves one other property beyond. Although the appellant argues that the private lane should not be classified as a highway for the purposes of establishing whether the provisions of Class E of the Town and Country Planning (General Permitted Development) Order 2008 (the GPDO) should apply and cites the technical guidance[1] that accompanies the Order, it is

[1] Ministry of Housing, Communities and Local Government - Permitted development rights for householders Technical Guidance (September 2019)

clear to me that a highway can be both a public right of way and unadopted streets and private ways. Whilst the lane involved might only serve the appeal dwellinghouse and one other property, the character of the lane has all the hallmarks of an unadopted metalled roadway that affords passage by vehicles or pedestrians and which links the two properties concerned with Woodhatch Road, which according to the appellant lies some 180m distant.

4. The identification of a property's postcode by reference to the nearest public highway does not in my view mean that the access lane here cannot be viewed as a highway given its characteristics. I therefore attach limited weight to this argument.

5. The appellant maintains that there is no definition of what may constitute a principal elevation for the purposes of the GPDO; however, as I have determined that the private access to the appeal property is a highway, I need not consider this matter further as it is quite apparent from my site visit that the front doorway and covered porch projection represents the principal elevation of Petridge Wood Farm and that this elevation faces the highway.

6. Having formed the view that the lane can reasonably be described as a highway, it is also clear that the proposed garage would not constitute permitted development under Class E of the GPDO.

7. The Framework regards the construction of new buildings as inappropriate development in the Green Belt. One of several exceptions to this is the partial or complete redevelopment of previously developed land (PDL) which would not have a greater impact on the openness of the Green Belt than the existing development (paragraph 145 g). Policy NHE5 of the Reigate and Banstead Development Management Plan 2019 (RDMP) that builds upon policy CS3 of the Reigate and Banstead Core Strategy (CS) is generally consistent with the Framework in stating that permission will not be given within the Green Belt other than for certain specified purposes, but differs from it with regard to the specific exceptions permitted. I have therefore had regard to policy NHE5 insofar as it is consistent with the Framework but attach greater weight to the exceptions within the Framework as the means to decide whether the proposal would be inappropriate development.

8. Policy CS3 of the CS states that the Green Belt in the Borough allows the coherence of the green fabric to be protected, which is consistent with the Framework in seeking to prevent urban sprawl by keeping land permanently open.

9. The site forms part of the garden to the residential property and is hardsurfaced. The proposed double garage along with its footprint, extending forward of the host property would have a substantial presence in terms of volume and massing by comparison. Although the appellant believes that the proposed garage would be constructed on PDL, this carries little weight given that the change that would be brought about as a result would result in greater impact on openness. Despite its location alongside an existing building and in front of the appeal property, it would significantly erode and harm the spatial openness of the Green Belt.

10. I have taken into account that the private lane is used by relatively few people. However, from the road frontage and the property to the east, the proposal and its roof would nonetheless be visible through the hedgerow as well as

glimpsed views of the proposed structure through the entrance gates. This would lead to an unacceptable erosion and significant harm to the qualities of visual openness as experienced from those nearby vantage points.

11. Accordingly, for the reasons given, as a result of its height, footprint, volume and massing, the proposed garage would have a significant adverse effect on openness of the Green Belt and would most evidently affect that openness to a significantly greater degree than the existing hardsurfacing that presently occupies the site. It would not therefore meet any of the exception criteria in paragraph 145 of the Framework, including sub-section g) of that paragraph.

12. Therefore, the proposal would be inappropriate development as described in paragraphs 145 and 146 of the Framework and policy NHE5 of the RDMP.

Other considerations

13. The Framework makes clear that substantial weight is given to any harm to the Green Belt and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriate development and any other harm, is clearly outweighed by other considerations.

14. The appellant has referred to a potential fallback option in which various built additions to provide the garage as proposed could be made within the extensive gardens to the existing dwelling as permitted development (PD), which he states would not require planning permission. These locations had been marked out by bricks when I carried out my site visit. However, I am not persuaded on the evidence before me that there is a realistic prospect of all of the options of the PD scheme outlined by the appellant being implemented. It appears to me that such alternative schemes would need to take place in a highly sensitive part of this most attractive landscaped garden.

15. Most importantly, there is insufficient evidence to clearly demonstrate that all of the alternative locations indicated by the appellant would be covered by PD rights. The Council raises concern that elements of the scheme may not qualify as PD and I share that opinion given my findings above on the matter of GPDO provisions. A lawful development certificate for those works could provide greater certainty as it is a legally binding decision, on application or appeal; however, no such certificate is before me.

16. I am aware that the appellant intends to convert the existing garage to a dwelling and that planning permission has been granted for this development to occur following appeal[2]. However, although I understand the appellant's desire to replace the lost garaging facility, this does not lead me to conclude that it represents a very special circumstance in the manner set out in the Framework and echoed by local development plan policy.

17. Overall, the harm caused by the inappropriateness of the development, its effect on openness, and the conflict with the Framework and a development plan policy, carry substantial weight. The development would not conflict with the five purposes for including land within the Green Belt, which neither weighs for or against the scheme. The other considerations carry limited weight in support of the appeal.

[2] Appeal Reference APP/L3625/W/17/3187044

18. On balance, there are no considerations sufficient to clearly outweigh the harm to the Green Belt and so there are no very special circumstances to justify the development. Accordingly, the appeal is dismissed.

Gareth W Thomas

INSPECTOR