
Appeal Decisions

Site visit made on 9 November 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

Appeal A - Ref: APP/J1535/D/20/3258006

Land rear of 34 Piercing Hill, Theydon Bois, Epping CM16 7JW

- 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 Docker of Gracewood Construction against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0721/20, dated 2 April 2020, was refused by notice dated 28 May 2020.
 - The development proposed is described as 'addition of an orangery and internal reconfiguration to the Coach House'.
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Appeal B - Ref: APP/J1535/D/20/3258086

Land rear of 34 Piercing Hill, Theydon Bois, Epping CM16 7JW

- 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 Docker of Gracewood Construction against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0850/20, dated 27 April 2020, was refused by notice dated 19 June 2020.
 - The development proposed is described as 'addition of a car port to the west facing side of property and internal reconfiguration'.
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Decisions

1. Appeal A - The appeal is allowed and planning permission is granted for the addition of an orangery, internal reconfiguration to the Coach House and decking at Land rear of 34 Piercing Hill, Theydon Bois, Epping CM16 7JW, in accordance with the terms of the application, Ref: PL/EPF/0721/20, dated 2 April 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, PIE010, PIE011, PIE030, PIE212, PIE213 and PIE214.
2. Appeal B - The appeal is dismissed.

Preliminary Matters

3. In the interests of precision, the description of development in my formal decision regarding Appeal A has been amended to include reference to the decking as this is shown on the drawings and was considered by the Council.

4. Although the description of development for Appeal A refers to the addition of an orangery, the drawings also show a front extension, dormer windows and the conversion of the Coach House to a dwelling. These works were approved in 2017 and amended in 2020. I have taken reference to these works on the drawings to be for information, rather than forming part of the proposal.

Main Issues

5. The main issues in the appeals are:
 - Whether the proposals would be inappropriate development in the Green Belt and the effect on the openness of the Green Belt; and
 - If the proposals would be inappropriate development in the Green Belt, 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 them.

Reasons

Whether the proposals would be inappropriate development

6. Policy GB2A of the Epping Forest District Local Plan Alterations 2006 (LP) states that planning permission will not be granted for development in the Green Belt unless it is one of the stated exceptions. The proposed orangery extension, decking and car port would not meet any of these exceptions because the existing building is not currently a dwelling and, based on the evidence before me, the decking and outbuilding would not be extensions. Thus, the proposals would be inappropriate development under Policy GB2A.
7. However, Policy GB2A predates the National Planning Policy Framework (the 'Framework'). The Framework takes a more permissive approach to what development types are exceptionally not inappropriate. In this respect, Paragraph 145c) states that the extension of a building (as opposed to just a dwelling) is not inappropriate development in the Green Belt provided it does not result in a disproportionate addition. Emerging Policy DM4 of the Epping Forest District Local Plan Submission Version 2017 would take a similar approach if adopted in its current form. Thus, when considering Paragraph 213 of the Framework, it is necessary in this instance to afford more weight to Paragraph 145c) of the Framework than Policy GB2A in ascertaining whether the proposed orangery would be inappropriate development.
8. The drawings submitted in support of Appeal A do not include written dimensions of the proposed orangery and the Council Officer's delegated report does not set this out either. However, the extension would be flat roofed, shallow in depth and span about half the rear elevation of the existing building. It would therefore be considerably smaller than the existing building and would not amount to a disproportionate addition.
9. That said, it is important to consider the proposed orangery in the context of the other additions that have already been approved – the front extension and dormer windows. The appellant has stated that the proposed orangery, when taken with the approved front extension, would result in a combined total floor area of 50m² and a volume of 162m³. This would be a 47% cumulative increase in the floor area of the building and a 49% increase in its volume. The Council has not disputed these figures and I have no reason to doubt them.

10. However, these figures do not seem to take into account the approved rear dormer windows and the floor area calculation is based on a measurement of the gross internal area rather than external dimensions. As such, the proposed orangery when taken with other additions would cumulatively increase the size of the building by more than the figures suggested by the appellant, although only by a marginal extent.
11. Thus, when considered cumulatively the orangery would result in the building being extended beyond the 40% figure in Policy GB14A, which defined the maximum extent of a proportionate extension. However, this policy is no longer extant and is therefore of very limited relevance. Emerging Policy DM4, as a material consideration, does not include a definition of what is a disproportionate addition and the previous appeal decision (APP/J1535/W/17/3166824) is not instructive as the scheme now before me is very different, as it does not include a basement. Nevertheless, it seems to me that something in the broad region of a 50% increase would be at the upper limits of what can be considered a proportionate enlargement of a building.
12. That said, an assessment of what constitutes a disproportionate addition goes beyond mathematical calculations. The matter also needs to be considered spatially with reference to massing and scale. In this instance the orangery would be much lower than the existing building, set in from the side elevations and reasonably tight to its original form. When considered cumulatively, the orangery and other approved additions would appear overtly subservient to the host building and therefore its original form would clearly remain as the dominant part of the structure once extended.
13. Therefore, and on balance, the orangery would not be a disproportionate addition when considered in isolation or cumulatively with other approved additions. It would therefore be one of the exceptions identified in Paragraph 145c) of the Framework and, consequently, it is unnecessary to consider its effect on openness or whether there would be very special circumstances.
14. Alternatively, it has not been demonstrated that the decking or car port, as free-standing structures, would meet any of the exceptions in Paragraphs 145 and 146 of the Framework. Accordingly, both the decking and car port would be inappropriate development in the Green Belt which is, by definition, harmful to the Green Belt.

The effect of the proposals on the openness of the Green Belt

15. Both the decking and car port would result in built form being constructed where there is none currently. This would reduce the openness of the Green Belt. The decking would be to the rear of the building, confined to a residential garden, low in profile and close to the ground. These factors would qualify the loss of openness to the point that the impact would be modest.
16. The car port would be positioned to the side of the host building and level with the front elevation. It would therefore appear quite prominent and would be viewed as visually contiguous with the existing built form of the existing building. However, it would be a reasonably modest structure with a height that would not exceed the eaves of the existing building. It would also be largely screened by the front boundary treatment and open sided, which could allow some visual permeability when not in use. Overall, the car port would have a moderate effect on openness.

17. As such, the proposals would result in modest and moderate harm to the openness of the Green Belt. The Framework advises that openness is an essential characteristic of the Green Belt, the fundamental aim of which is to keep land permanently open. The harmful loss of openness caused by the appeal schemes would be at odds with this fundamental aim.

Other Considerations

18. Planning approvals EPF/0031/20 and EPF/3295/16 included decking to the rear of the building. The approved decking would not be as deep into the garden as that now proposed, but it would wrap around the side of the building and would therefore be more prominent. The decking now proposed, although slightly deeper, would be contained wholly to the rear of the building and therefore the overall visual impact (and effect on neighbours' privacy) would be similar if not reduced. This is a point that weighs heavily in favour of the proposed decking.
19. An outbuilding was not approved as part of the building's conversion and therefore future occupants would have no where to store garden tools, bikes and other items they may not want to keep in the house. The provision of an outbuilding would therefore benefit living conditions. However, covered parking is not required to secure adequate living conditions and, being open sided, the car port would not be a secure store. It would also be much larger than a conventional garden shed. As such, the benefits to living conditions from the provision of a car port attract only very limited weight.
20. The car port could ordinarily be constructed by enacting permitted development rights but, in this instance, they have been removed and therefore this is not a strong point in support of the proposal. Vehicles would be parked in the open without the car port, but this would be a transient impact whereas the car port would be permanent.

Whether there would be Very Special Circumstances

21. The Framework states that inappropriate development will not be permitted unless very special circumstances can be demonstrated. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
22. The decking and car port would be inappropriate development that would, by definition, harm the Green Belt. There would also be some modest and moderate harm to the openness of the Green Belt. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt. The other considerations identified above weigh heavily in favour of the decking but not the car port. Accordingly, in respect of the decking proposed in Appeal A, the harm to the Green Belt is clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development would exist. This would not be the case with Appeal B where the opposite finding is applicable in this instance.

Conclusion

23. For the reasons given, I conclude that Appeal A succeeds, and Appeal B fails.

Graham Chamberlain, INSPECTOR