



Appeal Decision

Site Visit made on 25 January 2021

by Mr Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2021

Appeal Ref: APP/A1910/D/20/3262367

42 Box Lane, Hemel Hempstead HP3 0DJ

- 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 Kevin Brown against the decision of Dacorum Borough Council.
 - The application Ref 20/01868/FHA, dated 7 July 2020, was refused by notice dated 10 September 2020.
 - The development proposed is described as: 'Erection of a single storey oak framed double car port to the front of 42 Box Lane to be used for cars and no living space. Proposed location does not impact current parking capacity, nor does it require any alterations to driveway or trees'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect upon the openness of the Green Belt;
 - The effect upon the character and appearance of the area; and
 - If the proposal would be inappropriate development, whether or not any 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 it.

Reasons

Whether inappropriate development

3. Policy CS5 of the Dacorum Core Strategy (September 2013) (the Core Strategy) sets out that national Green Belt policy will be applied to protect the openness and character of the Green Belt. The National Planning Policy Framework (February 2019) (the Framework) specifies that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless one of several stated exceptions apply. The newly proposed car port would not meet any of the Framework's exceptions, nor any of the circumstances set out within Policy CS5 where small-scale development within the Green Belt will be permitted.

4. For the above reasons, the proposal would be inappropriate development in the Green Belt and conflicts with Policy CS5 of the Core Strategy and with the Framework in so far as these policies affirm that inappropriate development is, by definition, harmful to the Green Belt.

Openness

5. The proposed car port would occupy a standalone position set away from the host dwelling. It would be located within an area of the site that is currently clear of built development and that has a close relationship to Box Lane (the Lane).
6. The front area of the appeal site, where the car port would be located, is bound by buffers of planting to much of its perimeter. Indeed, trees of height are in place to the site's frontage. Nevertheless, upon inspection, fleeting views into the site were available from the Lane despite the planting and elements of perimeter fencing that exist. Indeed, whilst the car port would be single storey and of limited scale, its prominent forward positioning upon the site would lead to a loss of openness. This is even when noting that the car port would be sited on land already capable of accommodating parked vehicles.
7. For the avoidance of doubt, the existing planting cannot be relied upon to provide solid or permanent buffers to views. This is because planting is ever evolving, is reliant on regular maintenance to retain a consistent form and may be reduced in scale or extent in the future.
8. For the above reasons, the proposal would cause harm to the openness of the Green Belt. The proposal conflicts with Policy CS5 of the Core Strategy and with the Framework in so far as these policies confirm that the essential characteristics of Green Belts are their openness and their permanence.

Character and appearance

9. The appeal property forms part of a row of typically large detached properties that occupy generously sized plots and that are often setback from the Lane behind planted frontages. The area thus has a green and spacious residential character and appearance. Notwithstanding this, there are sporadic local examples of forward-positioned garages/outbuildings in place.
10. The car port would be positioned behind boundary fencing and in proximity to established elements of planting. These are features that would, at least in-part, filter or soften views of the proposed development when experienced from the Lane. The established planting, whilst not protected or able to be depended upon to provide a permanent screen to views, would realistically be anticipated to provide a continuing and meaningful soft edge to the site. Indeed, the act of construction would not realistically be anticipated to adversely affect the health of any close-by tree specimen.
11. A structure of single-storey height and limited scale is intended. Whilst its rear and side facing elevations would be of continuous timber composition, the car port would not have an unduly prominent or stark presence in the streetscene. Indeed, it would not appear as a discordant addition and the area's green and spacious character and appearance would remain readily identifiable.
12. For the above reasons, the proposal would not cause harm to the character and appearance of the area. The proposal accords with Policy CS12 of the Core

Strategy in so far as this policy states that development should integrate with the streetscape character.

Other matters

13. Reference has been made by the appellant to a garage recently permitted¹ and under construction to the front of No 32 Box Lane. However, that garage sits in proximity to other buildings and is setback relative to the Lane such that it is difficult to draw direct parallels to the car port proposed here. A further recent garage approval² at No 36 Box Lane has also been referenced. Nevertheless, full details are not before me and it has not been clearly demonstrated that the approved structure would have a similar relationship to surrounding buildings and to the Lane when compared to the car port proposed here. Thus, the evidence before me indicates that these recent approvals are of limited relevance to my considerations. This is particularly so in the context of judging the appeal proposal's effect upon the openness of the Green Belt.
14. The appellant has indicated that he would accept a planning condition requiring the proposed building to be moved back closer to the front of the house. However, to ensure that no party with an interest in this appeal is potentially prejudiced, I must determine the appeal based on the plans that were submitted to and determined by the Council at planning application stage.
15. I have noted concerns raised by the appellant as regards the Council's handling of the planning application that is now the subject of this appeal. However, these criticisms are of little relevance to the planning merits of the scheme that is before me for determination.

Very special circumstances

16. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework also indicates that substantial weight should be given to any harm identified to the Green Belt.
17. It has been suggested that, if sited further back upon the site, the proposed car port would benefit from permitted development rights that apply within the curtilage of a dwellinghouse. Indeed, one of the stipulations set out under Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) relates to any part of a new building being situated on land forward of a wall forming the principal elevation of the main dwelling.
18. However, it is the car port's proposed standalone and prominent positioning to the front of the site that raises greatest concerns in a Green Belt sense. Indeed, the measure of openness is not confined to the consideration of spatial dimensions and has a visual element that is influenced by such factors as site layout and the relationship to other buildings.
19. It has not been clearly established that it would be feasible and straightforward to construct a car port (of similar design to that proposed) to either the side or rear of the main dwelling at this site. In any event, even had a genuine and realistic intention to utilise permitted development rights been demonstrated, a

¹ 20/00467/FHA

² 20/01150/FHA

car port set to either the side or rear of the main dwelling, would reasonably be anticipated to have differing and less pronounced implications for the Green Belt's openness. It has not been clearly substantiated otherwise. For these reasons, the potential fallback position afforded by permitted development rights attracts limited weight.

20. The car port would offer enhanced on-site parking facilities. However, this benefit attracts limited weight and would not outweigh the substantial harm identified to the Green Belt (including harm derived from loss of openness) so as to amount to the very special circumstances necessary to justify the proposal. The scheme conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

21. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR