
Appeal Decision

Site visit made on 23 November 2021

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/J1535/D/21/3275420

The Dower House, Harlow Road, High Laver, Ongar CM5 0DT

- 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 and Mrs Daniel Osen against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0071/21, dated 7 January 2021, was refused by notice dated 5 March 2021.
 - The development proposed is the re-positioning of detached three bay garage approved under application EPF/2340/18.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) has been updated since the parties submitted their statements. They were given the opportunity to comment on any consequences of the revised version for the appeals, but neither responded. I have referred to paragraph numbers from the revised version.

Main Issues

3. The main issues are:
 - whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;
 - other considerations;
 - whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify the proposal?

Reasons

Whether inappropriate development?

4. The appeal site falls within the Green Belt (GB). Paragraphs 147 and 148 of the Framework state that inappropriate development is, by definition, harmful to the GB and that substantial weight should be given to any such harm. Paragraph 149 advises that new buildings in the GB should be regarded as
-

inappropriate with specified exceptions. Policy GB2A of the Epping Forest Local Plan Alterations 2006 (LP) also presumes against new buildings in the GB with exceptions.

5. Neither party has referred specifically to these exceptions. Nevertheless, I have considered them for the sake of completeness. They include 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 and the replacement of a building provided the new building is in the same use and not materially larger than the one it replaces. The proposed garage would be clearly detached from the main dwelling or any other building and, therefore, could not reasonably be regarded as an extension. Case law¹ has established that an unimplemented planning permission cannot be counted as part of the baseline for the assessment of replacement buildings. Therefore, I find that the exceptions do not apply in this case and that the proposal would be inappropriate development in the GB.

Openness

6. Framework paragraph 137 advises that openness is an essential characteristic of the GB and LP Policy GB7A presumes against development which would have an excessive adverse impact on openness.
7. The consented garage would be sited adjacent to existing outbuildings and its front elevation would be set back from the road further than those buildings and the main dwelling. The proposed garage would be sited considerably nearer to the road and would not be as closely associated with the existing buildings. Therefore, notwithstanding that the consented and proposed garages would be essentially the same size, the proposed garage would result in built development being spread over more of the site. As such it would lead to a minor loss of openness.

Other Matter

8. Although the proposed garage would be at a slightly lower level than the consented garage, it would still be elevated above the road. The planting on the site boundary would provide a degree of screening in views from Wind Hill to the west and Harlow Road to the south. However this also applies to the consented garage. Having regard to the siting of the proposed garage closer to the road and its distance from existing buildings, it would be more conspicuous in the landscape than the consented garage.

Other Considerations

9. The appellant advises that the consented garage would block a window proposed as part of the conversion of the adjacent outbuildings, that the orientation of the consented garage would leave the open front exposed to the prevailing weather and that it would offer less natural surveillance and, therefore, security than the proposed location.
10. I have not been provided with details of the proposed conversion of the existing outbuildings. However, it has not been shown that the conversion is necessary to provide occupiers of the appeal property with satisfactory living conditions or that a window in the east elevation is essential to a successful

¹ Athlone House Ltd v SSCLG [2015] EWHC 3524 (Admin)

conversion. Nor is there anything to suggest that the appeal site is particularly exposed to the prevailing weather or that the area experiences a high level of crime. Consequently, I can give limited weight to the claimed benefits of the proposal.

Green Belt balance

11. Framework paragraph 148 advises that inappropriate development should not be approved except in very special circumstances. I have also found that the proposed garage would result in a minor adverse impact on the openness of the GB and would be more conspicuous in the landscape.
12. Overall, I find that the other considerations in this case do not clearly outweigh the GB and other harm. Looking at the case as a whole therefore, I consider that the very special circumstances necessary to overcome the GB harm have not been demonstrated. The proposal, therefore, would conflict with LP Policy GB2A and Framework paragraphs, 137, 147, 148 and 149. There would also be a minor conflict with LP Policy GB7A. As such, the proposal would not amount to sustainable development.

Conclusion

13. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR