
Appeal Decision

Site visit made on 13 September 2021 by A J Sutton BA (Hons) DipTP MRTPI

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2022

Appeal Ref: APP/T3725/D/21/3278038

Terets Lodge, Rising Lane, Lapworth, B94 6JA

- 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 M Trenchard against the decision of Warwick District Council.
 - The application Ref W/20/1895, dated 15 November 2020, was refused by notice dated 7 May 2021.
 - The development proposed is demolition of existing garage and construction of new garage.
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Decision

1. The appeal is dismissed

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy;
 - the effect of the proposal on the openness of the Green Belt; and
 - whether 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 required to justify the proposal.

Reasons for Recommendation

Whether Inappropriate Development

5. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate other than in specified exceptions, which include at paragraph 149 d), the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The impact of such a proposal on the openness of the Green Belt is not part of the consideration of inappropriateness in this exception and is therefore a separate matter, which I return to below. Policy DS18 of the Warwick District Local Plan states that the Council will apply national planning policy to proposals within the Green Belt.
6. The assessment of whether the proposed replacement building would be materially larger is primarily an objective exercise by reference to size. The physical dimensions relevant to assessing the relative size of the replacement building will depend on the circumstances of the particular case. In this instance, whilst the proposed building would be slightly narrower than the existing garage, it would be significantly longer and taller as well as having a significantly greater overall floorspace. Therefore, while it would still be seen as an outbuilding in relation to the larger host dwelling, it would nevertheless be materially larger than the building it would replace.
7. The recent appeal decision at the property¹ was for a proposed extension to the dwelling, so was considered under a different Framework exception, now paragraph 149 c). That required consideration of whether it was a disproportionate addition, assessed relative to the original dwelling and taking account of other extensions. In contrast, paragraph 149 d) requires the proposal to be considered relative to the building it would replace. Therefore, this proposal is subject to a different policy test than the previous appeal.
8. Consequently, while the proposed new building would be in the same use as the existing garage, it would be inappropriate development in the Green Belt for the purposes of the Framework and the Local Plan Policy. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

9. From the road the proposal would appear similar to the garage it would replace, as the additional depth would be to the rear. Moreover, while the roof pitch would be steeper than the existing garage, the proposed building would be narrower. Although the ridge would be higher than the dwelling due to rising ground levels, this would be barely discernible from the road or elsewhere, particularly given the stand-off between the proposal and dwelling. Therefore, the mass when observed from the road would be less bulky than that of the existing garage.
10. The proposed garage would also generally retain the existing pattern of development at the property and would be partly screened by the existing hedge and dwelling. However, from within the appeal site it would clearly be larger than the existing building. While it would still be seen as part of the collection of domestic buildings, due to its scale it would result in a slight

¹ APP/T3725/D/20/3260588

reduction in openness in both visual and spatial terms. Given the extremely localised change the harm to the openness of the Green Belt in this area would be minimal, however having regard to the Framework it is a matter which carries substantial weight.

Other Considerations

11. The Framework states that very special circumstances to justify inappropriate development 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.
12. Permitted development (PD) rights for incidental buildings would provide the appellant with the opportunity to build outbuildings of lesser height but larger floor area than this proposal, potentially covering up to half of the existing curtilage. This would likely have an impact on the openness of the Green Belt. However, I have not been provided with any details such as drawings which would allow the assessment of the impact of any alternative scheme.
13. Notwithstanding this, I accept in this case that there is a greater than theoretical prospect that PD rights would be exercised should this appeal be dismissed, given the restricted size of the existing garage which limits its functionality. Whilst the likelihood that PD rights would be used to progress an alternative scheme is highly probable, there is no compelling evidence before me that the appellant would seek to build structures of a significantly greater size or ground coverage than is currently proposed. Moreover, no mechanism has been submitted as part of this appeal which would prevent the appellant exercising their PD rights as well as constructing this garage if this appeal were to be allowed. Consequently, I attach the potential fallback position only moderate weight.
14. While the appellant suggests that the proposal would improve accessibility to the property from the road, there is no substantive evidence before me that the existing access arrangement is substandard or unsafe, or that having more space on the frontage would be anything other than a private benefit to the appellant. Therefore, I give this matter very limited weight. The proposed garage would be in keeping with the character of the area and would not harm the living conditions of neighbours. However, these matters should be expected for all development and as such are neutral factors.

Whether Very Special Circumstances exist

15. The proposal would be inappropriate development in the Green Belt and would lead to a slight loss of openness to the Green Belt. Having regard to Framework paragraph 148 these are matters to which I attach substantial weight. Balanced against these harms are the other considerations discussed above, which for the reasons outlined carry moderate weight.
16. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Therefore, the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal would be contrary to Local Plan Policy DS18 and the Framework.

Conclusion and Recommendation

17. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. For the reasons given above, I therefore recommend that the appeal should be dismissed.

A J Sutton

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree with the recommendation. The appeal is therefore dismissed.

L McKay

INSPECTOR