



Appeal Decision

Site visit made on 2 March 2022

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2022

Appeal Ref: APP/A1910/D/21/3280747

The White House, Potten End Hill, Water End HP1 3BN

- 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 Mark Griffin against the decision of Dacorum Borough Council.
 - The application Ref 21/01236/FHA, dated 23 March 2021, was refused by notice dated 18 May 2021.
 - The development proposed is described as 'small garden room'.
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Decision

1. The appeal is allowed and planning permission is granted for a garden room at The White House, Potten End Hill, Water End HP1 3BN in accordance with the terms of the application, Ref 21/01236/FHA, dated 23 March 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL/001 (Location and Site Plan); and PL/002 (Proposed Plans and Elevations).

Preliminary Matter

2. A revised version of the National Planning Policy Framework was published by the Government in July 2021 (the Framework), postdating the Council's decision. The substance of the policy stated in the parts of the Framework referred to by the Council has not been altered with the publication of the revised Framework. The changes to the Framework relating to this case concern the Framework's paragraph numbering and in my reasoning below I have only referred to the updated Framework.

Main Issues

3. The main issues are:
 - whether the outbuilding¹ would be inappropriate development in the Green Belt;
 - the effect of the development on the openness of the Green Belt; and

¹ Referred to as a garden room by the appellant

- if the development would be inappropriate, 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 it.

Reasons

Whether inappropriate development in the Green Belt

4. The development would involve the construction of an outbuilding with a floor area of 20 square metres² (sq.m) within The White House's (TWH) rear garden. TWH being a chalet bungalow that has previously been extended, including under the terms of planning permission 4/01933/03/FHA which was for a replacement side extension (the 2003 permission).
5. Water End is in the Metropolitan Green Belt. Paragraph 147 of the Framework explains inappropriate development in the Green Belt is harmful by definition and should not be permitted. Seven types of built development listed in paragraph 149 of the Framework may be treated as exceptions to inappropriate built development in the Green Belt. However, outbuildings are not included amongst those exceptions.
6. Policy CS5 of the Dacorum Core Strategy 2006-2031 of 2013 (the Core Strategy) addresses development within the Green Belt and in seeking to protect the Green Belt's openness identifies development that may be permissible. Outbuildings, however, are not identified as being permissible for the purposes of Policy CS5.
7. I therefore conclude that the outbuilding would be inappropriate development within the Green Belt because it would neither come within the exceptions listed in paragraph 149 of the Framework nor represent a permissible form of development for the purposes of Policy CS5 of the Core Strategy. Paragraph 148 of the Framework states "*When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt ...*". As there would be definitional harm to the Green Belt I attach substantial weight to that harm.

Openness

8. Paragraph 137 of the Framework explains "*The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness...*". The outbuilding would add a little to the built development in the Green Belt, given its area of 20 sq.m. However, as the outbuilding would be within TWH's rear garden and TWH is one of a number of dwellings that make up Water End, I consider this development would not constitute urban sprawl. The change to Green Belt openness, in relative terms, would be very modest and I find it would not be harmful.

Other Matters

9. TWH is situated within the southern extremity of the Water End Conservation Area (the CA), a CA that includes dwellings of varying designs and ages and open countryside, including part of the River Gade. The outbuilding would be

² Paragraph 2.2 of the appellant's appeal statement

modest in scale and would have a domestic appearance that would be compatible with the appearance of TWH and the other dwellings at the southern end of the CA. I therefore consider that the outbuilding's presence would preserve the character and appearance of the CA.

10. I consider the outbuilding would be located sufficiently far away from the neighbouring properties, including The Moor, for its presence to have no adverse effect for the living conditions of the occupiers of those properties, with particular regard to outlook, privacy and noise.

Other Considerations

11. Ordinarily the outbuilding's siting would benefit from permitted development (PD) rights, deemed to be granted under the provisions of Class E of Part 1 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, TWH no longer benefits from those PD rights because condition 3³ imposed on the 2003 permission has withdrawn them. The reason for condition 3's imposition being *"To enable the local planning authority to retain control over the development in the interests of safeguarding the residential and visual amenity of the locality"*⁴.
12. It is evident that when the 2003 permission was granted the reason for condition 3's imposition was not to prevent the exercising of PD rights for development that might be harmful to the Green Belt, most particularly the reduction of its openness, but rather to safeguard the living conditions of the occupiers of neighbouring dwellings and the appearance of the area. As the reason for condition 3's imposition had nothing to do with avoiding Green Belt harm and were it not for that condition express planning permission for the outbuilding would be unnecessary, I consider those are considerations weighing substantially in favour of the proposed development.
13. I have indicated above that paragraph 148 of the Framework advises inappropriate development in the Green Belt is harmful by definition and should not be permitted. Paragraph 148 goes on to state *"... Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations"*.
14. The outbuilding's construction would be inappropriate development for the purposes of the policy stated in section 13 of the Framework and Policy CS5 of the Core Strategy. However, that policy conflict only falls to be considered because condition 3 was imposed on the 2003 permission. With respect to the development's effect on the Green Belt's openness, I have concluded that there would be no harm. I have also found that the development would result in no other harm, including its effect upon the CA. Taking those considerations together, I conclude that very special circumstances exist to justify planning permission being granted for the outbuilding.

Conditions

15. I have considered the need for the imposition of conditions, having regard to the Council's three suggested conditions and the provisions of the national

³ Paragraph 5.22 of the appellant's appeal statement

⁴ Paragraph 3.9 of the appellant's appeal statement

policy and guidance for the use of conditions. Apart from a standard time limit condition, it is necessary that the development be built to accord with the submitted plans for certainty.

16. A condition restricting the outbuilding's occupation to purposes that would be ancillary/incidental to TWH's residential occupation has been suggested. As the outbuilding would be sited in TWH's rear garden, were it to be occupied for purposes that were not incidental to TWH's residential occupation that would be likely to involve a use requiring express planning permission. I am therefore not persuaded it is necessary for me to impose a restrictive occupancy condition.

Conclusion

17. For the reasons given above the appeal is allowed.

Grahame Gould
INSPECTOR