



Appeal Decision

Site visit made on 15 March 2022 by Thomas Courtney BA(Hons) MA

Decision by Anne Jordan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 May 2022

Appeal Ref: APP/G2245/D/21/3280225

Farningham Hill House, Farningham Hill Road, Farningham, DA4 0JR

- 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. Mahal against the decision of Sevenoaks District Council.
 - The application Ref 21/01738/HOUSE, dated 11 May 2021, was refused by notice dated 22 July 2021.
 - The development proposed is the erection of a replacement outbuilding to provide garages with games room in the roof space.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a replacement outbuilding to provide garages with games room in the roof space at Farningham Hill House, Farningham Hill Road, Farningham, DA4 0JR, in accordance with the terms of the application Ref 21/01738/HOUSE, dated 11 May 2021, 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: 2259-32, 2259-33, 2259-34, 2259-35.

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.

Procedural Matter

3. The Council referred to the now superseded National Planning Policy Framework (NPPF 2019) and in particular the provisions of paragraph 145 of the NPPF 2019. The main thrust of the provisions outlined in paragraph 145 of the superseded version are comparable to the provisions now outlined within paragraph 149 of the newly adopted NPPF (2021). I am satisfied therefore that the issues at hand in this appeal are not affected by the policy change and that neither party would be prejudiced by my reference to the more recent version of the NPPF.

Main Issues

4. The main issues are:
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- Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
- The effect of the proposal on the openness of the Green Belt;
- if the development would be inappropriate, whether the harm to the Green Belt by way 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 for the Recommendation

Whether the development would be inappropriate development

5. The appeal site comprises a large, detached dwelling set within an expansive plot located on the northern side of Farningham Hill Road in an established residential area which lies within the Green Belt. The appeal relates to a detached outbuilding sited to the north of the main dwelling. On my site visit, the proposed outbuilding had been partially erected following the demolition of the original outbuilding which stood in its place.
6. Paragraph 149 of the NPPF states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. One exception is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. Policy GB3 of Sevenoaks District Council's *Allocations and Development Management Plan 2015* (ADMP) states that outbuildings located more than 5m from the existing dwelling will be permitted where the building, including the cumulative impact of other outbuildings and extensions within the curtilage of the dwelling, would be ancillary to the main dwelling in terms of function and design and would not materially harm the openness of the Green Belt through excessive bulk or visual intrusion.
7. The Council highlights that the proposed outbuilding would have a total floor area of 145.6 sqm, representing an 84% increase in floor area over that of the demolished outbuilding which had a floor area of 78.96 sqm. Whilst the Council states that the proposal would result in a larger building that would be harmful to the openness of the Green Belt, the appellant contends it would be subservient to the main house in terms of scale, appearance and use of matching materials.
8. It is clear to me that the figures indicate the resultant building would be substantially and materially larger than the original outbuilding. The overall increase in floor area, width and volume of the replacement building over the original outbuilding would quite clearly result in greater visual bulk. Indeed, the insertion of three dormer windows to the southern elevation will introduce substantial new built form and mass at first floor level. Notwithstanding the fact that the proposed outbuilding would be clearly smaller than the main dwelling, I find that the scale of the replacement building would be excessive and would result in an outbuilding that would be materially larger than the one it replaces.
9. On the basis that the proposed replacement building would result in a new building that would be materially larger than the one it replaces, I therefore find the proposal would be inappropriate development in the Green Belt and

would conflict with Paragraph 149(d) of the NPPF, as detailed above, and Policy GB3 of the ADMP which seeks to resist inappropriate development in the Green Belt.

Openness

10. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. The additional built form and volume as a result of the erection of the replacement outbuilding would materially impact on openness in a spatial aspect. Furthermore, the increased size of the roof and bulk at first floor level would mean the proposal would also have a greater visual impact on the openness of the Green Belt. However, I acknowledge that the site's boundaries are well-screened with mature vegetation so the visual impact would be limited. The spatial and visual impact on openness would therefore result in limited harm to the Green Belt.

Other considerations

11. The NPPF states that inappropriate development should not be approved except in very special circumstances, and that 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.
12. In this regard, the appellant has drawn attention to a fallback position through the Permitted Development process emphasising that a larger outbuilding could be erected. I have been provided with details of the grant of a Lawful Development Certificate (ref: 21/03408/LDCPR) for the erection of an outbuilding in the north-western corner of the appeal site and I also note the appellant has provided plans and calculations demonstrating accurate comparisons of the schemes. The fallback scheme would be lower in height being only single storey and would also have a considerably larger footprint and volume than the proposed outbuilding. I find that the fallback scheme, although lower in height, would appear drastically larger than the appeal scheme given the scale of its footprint. It would introduce a larger proportion of built form in an area of garden which is currently open and would thus have a greater adverse spatial and visual impact on openness. For these reasons, substantial weight is attached to this consideration.
13. Furthermore, the Council consider that there is no certainty regarding the likelihood of the fallback scheme being implemented given the construction works relating to the proposed outbuilding have nearly been completed and it would be too costly to revert to the fallback scheme. I am not persuaded by this argument. I cannot decisively establish whether the appellant would or would not have the means to revert to the fallback scheme. Furthermore, in the absence of permission for the scheme before me, I cannot conclude that the appellant would not seek to provide a similar facility at his property, potentially in the form advanced in the Lawful Development Certificate.

Planning Balance and Overall Conclusion

14. I consider that the development would cause harm to the Green Belt by way of its inappropriateness and to its openness, and substantial weight should be given to these harms. However, I have also attached substantial weight to the very special circumstances put forward by the appellant. On balance, I find that the fallback scheme would have a greater impact on the openness of the Green Belt when compared to the proposed replacement outbuilding. Therefore, the substantial weight of this consideration outweighs the harm I have identified. I conclude therefore there are very special circumstances to justify the development.

Conditions

15. I have considered the Council's suggested conditions against the advice on conditions set out in the NPPF and the Planning Practice Guidance. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plans in order to provide certainty.
16. The Council have suggested a condition relating to the provision of measures to enhance biodiversity at the site. However, as I have been provided with no evidence to substantiate the need for such a condition, I find that it does not meet the test of necessity outlined in the PPG.

Recommendation

17. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Anne Jordan

INSPECTOR