



Appeal Decision

Site visit made on 17 May 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2022

Appeal Ref: APP/J1535/D/21/3277384

Little End, Hoe Lane, Nazeing, Waltham Abbey EN9 2RJ

- 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 Chavinash Dookhit against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0521/21, dated 24 February 2021, was refused by notice dated 26 May 2021.
 - The development proposed is the demolition of an existing garage/workshop and the erection of a replacement garage/workshop in the same position.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing garage/workshop and the erection of a replacement garage/workshop in the same position at Little End, Hoe Lane, Nazeing, Waltham Abbey EN9 2RJ in accordance with the terms of the application, Ref PL/EPF/0521/21, dated 24 February 2021, and 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:001, 002 and 100.
 - 3) The external finishes of the development hereby permitted shall match in material, colour, style, and texture those of the existing dwelling.
 - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary or incidental to the residential use of the dwellinghouse, known as Little End, Hoe Lane, Nazeing, Waltham Abbey EN9 2RJ, and shall at no time form a separate dwelling.

Application for costs

2. An application for costs was made by Mr Chavinash Dookhit against Epping Forest District Council. This application is the subject of a separate Decision.

Main Issue

3. The site is within the Green Belt and so the main issue is:

- whether the scheme would be inappropriate development for the purposes of the National Planning Policy Framework (the Framework) and the development plan.

Reasons

Whether inappropriate

4. Little End is a two storey dwelling with detached garage/workshop building. Paragraph 149 of the Framework establishes that new buildings or development are inappropriate unless they fall within listed exceptions. Under Policy GB2A of the Epping Forest District Local Plan Alterations 1998-2006 (LP), adopted 1998, planning permission will not be granted for the construction of new buildings in the Green Belt unless it is appropriate.
5. At paragraph 149 c) of the Framework, one such exception is 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. Under the LP Policy GB2A, the related exception is the limited extension to an existing dwelling.
6. The dwelling has already been significantly extended and the replacement of the existing garage/workshop building would result in a further increase in floorspace to be used for garaging, WC/store, entrance hall and first floor loft store (served by a staircase from the entrance hall). In Green Belt proposals, the erection of a domestic outbuilding, such as a garage or playroom, can be regarded as part of the dwelling where it would be a normal adjunct to the dwelling¹.
7. However, the replacement outbuilding would be located a significant distance away from the nearest entrance to the dwelling across a drive, turning area, and a walkway area below a jutting out first floor. As such, any new floorspace would not have a close physical relationship and therefore, the replacement garage could not be considered as an extension. For these reasons, the extension exception under this part of the Framework and LP Policy GB2A is not relevant in this case.
8. At paragraph 149 d) of the Framework, another exception is the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces. Under LP Policy GB2A, this is no equivalent exception listed. There is no definition of materially larger within the Framework and assessment is down to informed judgement.
9. The plans show the introduction of a first floor evident from a staircase, a forward positioned gable and windows, and the appellant's undisputed figures show an overall floorspace from 51m² to 66m², approximately. This results in a percentage increase of 29%, approximately. In terms of approximate increased volume, the Council has indicated a change from 155m³ to 210m³, an increase of about 35%, whilst the appellant indicates a change from 120m³ to 183m³, an increase of approximately 53%. The appellant indicates a change in building height from 3.5m to 4.5m and the Council indicates an increase from 3m to 4.6m.
10. In terms of the height difference between parties, this is explained by the roof design of the existing garage which has three parallel pitched gabled roofs

¹ Sevenoaks District Council v SSE and Dawe (1997).

facing the dwelling, two lower in height than the other, and to the rear, two low pitched lean-to roofs. In this respect, taking an average of the individual roof components, as the Council has, provides a better estimate on height increase. In summary, the mathematical calculations on floorspace, volume and height (taking into account the higher calculations on these later two factors) indicate a perceptible size increase for the building.

11. Nevertheless, these mathematical calculations are not the sole measure of assessing 'materially larger' under the exception. In this regard, the footprint of the replacement building would be very similar to that existing and the first floor would be largely contained within a pitched roof. As the existing building is of a modest size already, the increase in first floor scale and height would not appear excessive or great which is evident in the plan overlay of the existing building shape on the proposed front elevation of the new building. Taking all the factors into account, overall, the replacement garage would not be materially larger than that existing.
12. Policy GM4 of the Epping Forest District Local Plan Submission Version 2017 states planning permission will not be granted for inappropriate development and lists exceptions in line with national policy. The exception for replacement buildings is similar to the Framework exception at paragraph 149 d) and the proposal would comply with this exception for the reasons given above and this emerging policy.
13. In summary, the proposal would be an exception to inappropriate development in the Green Belt for all these reasons.

Other matters

14. Under LP Policy GB7A, planning permission will be refused for development conspicuous from within or beyond the Green Belt, which would have an excessive adverse impact upon openness, rural character or visual amenities of the Green Belt. By reason of the new building not being inappropriate development, there would be no impact on openness or conflict with this policy.
15. The replacement building would be alongside the boundary of a neighbouring property. However, the proposal would utilise the existing footprint of the garage and although higher with a first floor element, it would have a sloping pitched roof facing the neighbouring property. It would also have no windows facing the neighbouring property. As such, it would not significantly affect the living conditions of the neighbours through the loss of outlook and privacy. Given the use of the new building in connection with the existing dwelling, there is no evidence that there would be unacceptable noise and disturbance.
16. The appeal site lies within the Hazeing and South Roydon Conservation Area which includes older-style dwellings and buildings within semi-naturalised surroundings. The buildings are mostly grouped fronting roads as ribbon or clusters within the context of fields and paddocks. Within the Conservation Area, there are some industrialised developments. Nevertheless, it retains attractive semi-rural and traditional historic and architectural qualities that are of importance and contribute to its significance and its special interest. Considerable importance and weight are attached to the desirability of preserving the character and appearance of the Conservation Area.

17. However, although larger, the replacement building would be attractively designed utilising the existing footprint of a former structure. As such, it would preserve the character and appearance of the Conservation Area.

Planning Balance

18. The proposal would not be inappropriate development in the Green Belt and there would be no conflict with LP Policies GB2A and GB7A. There would be compliance with the development plan taken as a whole and there are no material considerations to indicate a decision should be taken otherwise than in accordance with it and planning permission should be granted.

Conditions

19. Suggested conditions have been considered in light of the tests contained within paragraph 56 of the Framework; for clarity and to ensure compliance with tests, some of the Council's suggested wording has been amended. A condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of proper planning and for the avoidance of doubt. In the interests of character and appearance, a condition is required regarding acceptable materials. To safeguard against the creation of a separate dwelling, a condition is necessary restricting the building to be ancillary or incidental use. In the absence of any detailed justification, it is unreasonable to withdraw permitted development rights for the building.

Conclusion

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

Jonathon Parsons

INSPECTOR