



Appeal Decision

Site visit made on 5 July 2022

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2022

Appeal Ref: APP/P1940/D/21/3278532

Hunterswood House, Penmans Green, Sarratt WD4 9AY

- 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 & Mrs Guy and Sarah Weldon against the decision of Three Rivers District Council.
 - The application Ref 21/0427/FUL, dated 22 February 2021, was refused by notice dated 6 May 2021.
 - The development proposed is described as, "Construction of an outbuilding for use as a home gym".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - 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

Whether Inappropriate Development

3. The Framework establishes that the construction of new buildings within the Green Belt is inappropriate development. There are however a limited number of exceptions to this, as set out in paragraph 149 of the Framework, but none refer specifically to ancillary outbuildings.
4. Policy DM2 of the Three Rivers District Council Development Management Policies Local Development Document (adopted 2013) (DMP) provides that, as set out in the Framework, the construction of new buildings in the Green Belt is inappropriate. Under part a) it states that, except in very special circumstances, approval will not be given for new buildings in the Green Belt other than those specified in national policy. In these respects, DMP Policy DM2 is consistent with the Framework.

5. Under part d), Policy DM2 refers to ancillary buildings. However, it does not go so far as to explicitly define such proposals as being not inappropriate development in the Green Belt. Also, in light of the exceptions as set out at paragraph 149 of the Framework, part a) of Policy DM2 would be inconsistent with part d) if it is interpreted as defining ancillary buildings as not inappropriate development. Instead, my understanding is that part d) of Policy DM2 merely sets out additional criteria over and above the provisions of the Framework in the assessment of ancillary buildings in the Green Belt.
6. Reference has been made to appeal decision Ref APP/Y3615/D/15/3128756 in the context of the (now) paragraph 149 c) of the Framework. This defines the extension or alteration of a building as not inappropriate development provided it does not result in disproportionate additions over and above the size of the original building.
7. Given its proposed use as a home gym and its size, the proposal would be associated with, and subservient to, Hunterswood House. Nevertheless, the proposed outbuilding would be situated some distance from the dwelling with a driveway and hedgerow and trees in between. Therefore, the proposal would not constitute an extension of an existing building for the purposes of paragraph 149 c).
8. Based on the nature of the proposal and the evidence before me, I consider that none of the exceptions in paragraph 149 of the Framework apply to the proposal. As such, I conclude it would represent inappropriate development in the Green Belt.

Openness

9. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
10. Hunterswood House is a substantially-sized detached property set within extensive grounds. The proposed outbuilding would be set back from the public highway where it would be heavily screened by trees and hedgerow. The proposed outbuilding would not be of a significant bulk in its context and it would be lower in height than the adjacent garage, and it would be positioned close to that garage and the nearby cricket nets. Thus, the proposal's impact on the visual openness of the Green Belt would be limited.
11. However, although a fair amount of green space would still exist around the proposed outbuilding, it would be sat within an area of currently open and undeveloped green space. By virtue of its volume, the construction of the building would reduce the spatial openness of the site.
12. Whilst the impact would be limited and localised, the scheme would nevertheless result in a loss of open land, in conflict with criterion d) i) of DMP Policy DM2 and the fundamental aim of Green Belt policy as set out under paragraph 137 of the Framework. It follows that the proposal would not assist in serving the purposes of the Green Belt, including safeguarding the countryside from encroachment, in conflict with Policy CP11 of the Three Rivers District Council Core Strategy (adopted 2011) (Core Strategy).

Other Considerations

13. The amount of glazing for the proposed outbuilding would not compete in visual terms with Hunterswood House, given the large size and the numerous windows on that property, and the proposed outbuilding would be subordinate to it in terms of its scale. It would incorporate gabled roof forms but due to the size of the proposal these would not be more imposing than the existing prominent gables on Hunterswood House. As such, I consider that the proposal would comply with the first part of criterion d) i) of DMP Policy DM2 which provides that the Council will only support the provision of ancillary buildings in the Green Belt where it can be demonstrated that the development would be of a scale and design clearly subordinate to the dwelling.
14. Due to its secluded location relative to the wider landscape, the proposed materials, and its unobtrusive design, the proposed outbuilding would be sited in an appropriate location that would not be prominent in the landscape and would not result in the spread of urbanising development, in compliance with criterion d) ii) of Policy DM2. Moreover, the design choices proposed would mean that the proposed outbuilding would avoid features normally associated with the use of a building as a dwelling such as dormer windows, in compliance with criterion d) iii) of Policy DM2.
15. Nevertheless, as these considerations would merely serve to maintain the character and appearance of the area, these are neutral factors, which do not weigh in favour of the proposal.
16. Reference has been made to a Lawful Development Certificate (LDC) for the construction of a detached outbuilding. Whilst a copy of any decision on an LDC has not been provided, given the appellants' firm intentions regarding their ability to implement such a development I consider that there is a realistic prospect of such a development being implemented in the event that this appeal is dismissed. In this regard, the appellants have highlighted the benefits of the appeal proposal in comparison with the LDC development, including a higher standard of design and a smaller size, which according to the appellants would result in a lesser impact on the openness of the Green Belt than the LDC development.
17. However, whilst the appellants' have asserted that they are willing to forego the LDC development in the event that this appeal is allowed, I note that potentially the LDC development and the appeal proposal could be constructed simultaneously. A condition to remove permitted development rights could be imposed but this would only come into effect once planning permission is implemented. In the absence of a planning obligation to the effect that the appellants would forego permitted development rights at the appeal property, the LDC development could be carried out prior to the commencement of the appeal development.
18. As there is no effective mechanism before me which would prevent the LDC development from being built in conjunction with the appeal proposal, the benefits of the proposal when compared with the fall-back position could be negated. For these reasons, the fall-back position has been given limited weight in favour of the proposal.

Balancing of Considerations

19. The Framework makes it clear at paragraph 148 that substantial weight should be given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Similarly, Core Strategy Policy CP11 provides that, amongst other things, there will be a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or which would conflict with the purpose of including land within it.
20. The proposal would be inappropriate development in the Green Belt and would result in a reduction in its openness. These matters carry substantial weight. Taken together, I conclude that the other considerations in this case do not clearly outweigh the harm that I have identified. It follows that the very special circumstances necessary to justify the proposal do not exist. Therefore, the proposal would not comply with Core Strategy Policy CP11, DMP Policy DM2, or the Framework.

Conclusion

21. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR