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## Appeal Decision

Site visit made on 22 November 2022

**by David Troy BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1 December 2022**

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**Appeal Ref: APP/P0240/W/22/3303525**

**27 Mentone Avenue, Aspley Guise, Milton Keynes MK17 8EQ**

- 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 Stel Theodoulou against the decision of Central Bedfordshire Council.
  - The application Ref CB/22/01831/FULL, dated 29 April 2022, was refused by notice dated 24 June 2022.
  - The development proposed is erection of garage/gym to front of property.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on
  - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
  - (ii) The effect of the proposal on the openness of the Green Belt;
  - (iii) The character and appearance of the area, including Aspley Guise Conservation Area;
  - (iv) The existing trees having particular regard to the site's location to a Protected Oak Tree immediately to the south-east of the site; and
  - (v) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

### Reasons

*Whether inappropriate development in the Green Belt*

3. The appeal site is within the Green Belt and the National Planning Policy Framework (the Framework) states at paragraph 147 that inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances.
4. Paragraph 149 of the Framework establishes that, within Green Belts, the construction of new buildings is inappropriate, subject to a number of

exceptions. One such exception (paragraph 149(e)) allows for limited infilling in villages. A definition of limited infilling is not provided within the Framework and therefore falls to a judgment depending on the circumstances of each case.

5. Policy SP4 of the Central Bedfordshire Local Plan 2021 (Local Plan) advises that proposals for development in the Green Belt will be assessed in accordance with policies in the Framework and National Planning Practice Guidance. Within settlements that are washed-over by Green Belt, such as Aspley Guise, the policy requires that proposals pay particular regard to the character and openness of the site and its surroundings. Paragraph 8.6.3 of the Local Plan provides a general definition of infill development. This refers to 'small-scale development in a small gap in an otherwise built up frontage, utilising a plot in a manner which should continue to complement the surrounding pattern and grain of development'.
6. The proposed detached garage/gym measuring 10m in length by 6.6m in width would be constructed with a pitched roof with an overall ridge height of about 5.1m. It would be located on the existing gravel and resin hardstanding area at the front of the property. Whilst the proposed development would be small-scale in nature, due to the proposed location of the proposed garage/gym, set noticeably forward of the existing house frontage, it would not amount to the infilling of a gap in an otherwise built-up frontage on Mentone Avenue. As such, it would not satisfy the exception at paragraph 149(e) of the Framework.
7. Equally, I am not persuaded that the proposal would meet any of the other exceptions for development within the Green Belt as set out in the Framework. In particular, in terms of paragraph 149(g) even if the site was judged, as argued by the appellant, to fall within the definition of Previously Developed Land as defined in Annex 2 of the Framework, I consider the construction of the proposed building on the site would have a greater impact on the openness of the Green Belt than the existing development on the site.
8. Consequently, the proposal would constitute inappropriate development in the Green Belt that is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. It conflicts with the aims of the Framework and Policy SP4 of the Local Plan. In accordance with the Framework, I attach substantial weight to the harm arising due to the inappropriate nature of the development in this location.

### *Openness of the Green Belt*

9. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The Framework advises at Paragraph 137 that openness and their permanence are essential characteristics of Green Belts. Openness is generally defined by an absence of built form and not necessarily to visibility.
10. The proposed building, by virtue of its scale, form and siting, would not amount to a subservient form of development on the appeal site. The proposal would result in an increase in the built form in the area which would compromise the sense of openness and would fail to keep the land permanently open.
11. Consequently, I conclude that the proposed development would result in harm to the openness of the Green Belt and as such would conflict with the aims of

the Framework which seek to preserve the openness of the Green Belt. I give substantial weight to that harm.

*Character and appearance of the area*

12. The appeal site comprises of a contemporary style detached dwelling located in a mature well-established residential area, characterised by mixture of properties of varied styles and designs in relatively spacious landscaped plots that provides an open and verdant character to the area.
13. The appeal site is situated in a row of detached properties set back a similar distance from the road behind a front garden/driveway and grass verge where no footways exist. Where boundary walls, hedges and other structures exist in front of the adjacent properties, they are generally low, clearly subsidiary, and have little impact upon the sense of space and openness.
14. The proposed garage/gym would be set back from the highway behind a high boundary hedge and vehicular access gate along the front of the site. The external finish of the contemporary style building would be predominantly constructed from brick, timber cladding and an asymmetric pitched roof.
15. Whilst the proposed garage/gym would not appear overlarge, relative to the overall plot size, the proposed building would nevertheless still be a significant addition in this location. Although it would be set back, the overall scale and form of the proposed building would be out of character with the established pattern of development in the area and would compromise the sense of space and openness in the area.
16. These shortcomings would be exacerbated by the proposal's prominent position which would be visible from a number of public vantage points along Mentone Avenue. I therefore consider that the proposed garage/gym, by virtue of its scale, siting and design, would result in an incongruous and out-of-keeping addition that would fail to promote or reinforce the distinctive characteristic of the area and would adversely harm rather than positively contribute to the character and appearance of the area.
17. Given the location of the appeal site within the Aspley Guise Conservation Area (CA), special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area. I consider that the appeal scheme, by virtue of its scale, siting and design would have a negative material impact and would fail to preserve or enhance the CA.
18. Given the modest scale of the development, the harm would be less than substantial but in accordance with paragraphs 202 of the Framework, that harm should be weighed against any public benefits to the proposal. I note the appellant's desire is to provide new garage/gym facilities and to secure the optimum viable use of the site. However, I find insufficient public benefit arising from this proposal to offset the identified harm to which I attach significant weight.
19. I have considered the appellant's arguments that the design and layout of the proposed garage/gym would be in keeping with the other properties in the area and has been carefully designed in order to minimise any impacts on adjacent dwellings and the area. Whilst the use of matching materials, boundary treatment and the landscaping would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above.

20. Consequently, I conclude that the proposed development would result in harm to the character and appearance of the area, including the CA. It would be contrary to the aims of Policies HQ1 and HE3 of the Local Plan and the Central Bedfordshire Design Guide 2014. These policies and guidance, amongst other things, require development proposals to be of the highest quality that relate well to the existing local surroundings, enhance or reinforce the distinctiveness and character of the area and where possible, preserve, sustain and enhance the designated heritage assets and their setting. In addition, the proposal would not accord with the Framework that developments should seek to secure a high quality of design (paragraph 126) that are sympathetic to the local character (paragraph 130) and sustain and enhance the significance of heritage assets (paragraph 197).

### *Trees*

21. The proposed garage/gym would be situated adjacent to an Oak tree, which is subject to a Tree Preservation Order, located in the front garden of the neighbouring property at No. 29 Mentone Avenue to the south-east of the site. From my observation during my site visit, this established tree makes an important contribution to the visual amenity of the area.
22. The appellant's statement outlines that the appeal scheme would be positioned away from the protected tree and would use foundations and construction methods to reduce the impact of the development on the protected Oak tree. However, the proposed building and associated works would be located in close proximity to the protected Oak tree and, in this respect, I am mindful of the objections received from the Council's Tree Officer as part of the application. No tree survey nor any substantive evidence has been submitted by the appellant to assess the impact of the proposed building on the protected Oak tree in this case.
23. Consequently, in the absence of any convincing evidence to the contrary, given the importance of the protected Oak tree to the visual amenity of the area, I conclude that the proposal has failed to adequately address the potential impact on the tree and any necessary tree protection mitigation measures that may be required. It would be contrary to the overall aims of Policies EE4 and HQ1 of the Local Plan that seeks, amongst other things, to ensure that development proposals take into consideration the existing natural environment and are designed to ensure significant tree features will be protected.

### **Other Considerations**

24. I have noted the other developments in the area drawn to my attention by the appellant. However, the various garages associated with the properties within the surrounding area have different characteristics to the appeal scheme. In any event, each proposal falls to be assessed primarily on its own merits and I am unaware of the full circumstances associated with these other cases.
25. I have noted the issues raised by the appellant regarding the way in which the application was processed by the Council. However, these are a material consideration to which I can attach only limited weight in making this decision.
26. I have considered the various benefits put forward by the appellant that the proposal would bring, including the scheme's high quality design. Overall,

these are benefits that would result in moderate weight in favour of the appeal scheme.

*Very Special Circumstances*

27. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have concluded that the proposal would harm the openness of the Green Belt. Paragraph 148 of the Framework states that substantial weight should be given to any harm to the Green Belt. I have concluded the proposal would cause harm to the character and appearance of the area, including the CA and the adjacent protected Oak tree to which I attach significant weight.
28. Having considered all of the matters raised in support of the development, I conclude that, collectively, they do not outweigh the totality of the harm I have identified in relation to the Green Belt. I am not satisfied that any material considerations have been put forward of sufficient weight to outweigh the very strong public interest in protecting the Green Belt from inappropriate development. Accordingly, very special circumstances do not exist and the principle of the development would be contrary to Policy SP4 of the Local Plan and the Framework.

**Conclusion**

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

*David Troy*

INSPECTOR