



Appeal Decision

Site visit made on 19 December 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/D1265/D/22/3300365

Henbury Manor, A31 (T) - A350 R/A To Lake R/A, Corfe Mullen BH21 3RL

- 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 Ms Christine Ballard against the decision of Dorset Council.
 - The application Ref P/HOU/2021/04899, dated 17 November 2021, was refused by notice dated 12 April 2022.
 - The development proposed is described as: 'we would like to erect a garage 7mx11m roof height 4m, construction would be a prefabricated cold roll steel frame with 100mm insulated cladding, to store cars. The purposed siting of the garage would be at the rear of the house'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form indicates that works have not started. However, during my site visit, I observed that the proposed garage was erected and was substantially complete externally. The structure's location and appearance appeared to align with the submitted drawings.
3. Therefore, I have determined the appeal on the basis that the appellant is seeking permission for what is now in place.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to relevant development plan policy and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on the character and appearance of the area; and
 - 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 required to justify the proposal.

Reasons

5. The appeal site relates to Henbury Manor, a large house with ancillary outbuildings set within spacious grounds. There are small clusters of dwellings and agricultural buildings to the site's south, while the broader area encompasses farmland. The appeal scheme is located close to the site's south west corner near to other curtilage buildings, a tall boundary wall and some neighbouring farm sheds.

6. The Framework states that decision makers should regard the construction of new buildings as inappropriate in the Green Belt. Paragraph 149 and 150 of the Framework provide a list of exceptions for when new buildings and uses within the Green Belt would be appropriate.
7. Saved policy KS3 of the Christchurch and East Dorset Local Plan (adopted April 2014) (the Local Plan) sets out the purposes of the Green Belt and its boundaries but does not otherwise address detailed Green Belt policy in the same way as the more recent Framework. Therefore, I have had regard to it only insofar as it relates to the purposes described.
8. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that openness is an essential characteristic of the Green Belt. Openness, or an absence of development, is the counterpart of urban sprawl, as referred to in the recent Supreme Court decision to which I have been directed¹. Openness can have spatial and visual aspects.
9. The appellant's statement of case specifically refers to the exception at Part (g) of Paragraph 149 relating to limited infilling or the partial or complete redevelopment of previously developed land. This is subject to proposals not having a greater impact on the openness of the Green Belt than the existing development, or not causing substantial harm to the openness of the Green Belt where the development would contribute to meeting an affordable housing need. None of the other exceptions have been referred to, therefore I will focus on Paragraph 149 (g) in my assessment.
10. The Framework confirms that previously developed land includes land, which is occupied by a permanent structure, including the curtilage of the developed land, but excludes land that is or has been occupied by agricultural or forestry buildings, land in built-up areas and land that was previously developed but where the remains of the fixed surface structure have blended into the landscape.
11. As the garage is erected, I did not have the opportunity to inspect the situation on the ground prior to its construction. However, the appellant's statement contains an earlier photograph showing a hardstanding where the garage now stands. Based on the site's use, and the appearance and rural character of the site prior to the garage's construction I am satisfied that it falls within the curtilage of a permanent structure and that this is not within a built-up area. Therefore, prior to its construction, the land upon which the garage is built, constituted previously developed land in accordance with the definition provided by the Framework.
12. The garage's position and proximity to existing curtilage buildings and the farm buildings on neighbouring land can also, in my view, be regarded as limited infilling.
13. The image of the hardstanding shows that the site was previously covered with a compacted, engineered surface. There were no buildings present nor was there any evidence of former structures. Consequently, notwithstanding the relatively limited size of the site, its engineered appearance, and the presence of buildings nearby, in its previous form the site contributed to openness and, consequently, to the fundamental aim of the Green Belt to keep land permanently open, thus preventing urban sprawl.

¹ R (on the Application of Samuel Smith Old Brewery (Tadcaster) & others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3

14. The submitted drawings show the garage having a width of around 7m, a length of 11m and a maximum height of 3.9m. The introduction of the garage will result in a large structure occupying the site. When combined, the footprint, mass and height of the garage will inevitably have a significantly greater impact on the openness of the Green Belt in spatial terms compared to the previous development on the appeal site. Although there are other structures nearby, the proposal will nonetheless intensify the built form at the site and lead to an appreciable reduction in openness.
15. This impact will be visible from within the site, predominantly from the rear grounds, although somewhat limited from neighbouring land given the presence of the boundary wall. Thus, I have concluded that it will cause minor harm to the openness and purpose of including the land within the Green Belt. Paragraph 148 of the Framework states that “any” harm to the Green Belt should be accorded substantial weight.
16. There is no evidence before me that the scheme will contribute to meeting an affordable housing need, therefore I have not assessed it against the second strand of Paragraph 149 (g).
17. I have been referred to an appeal decision at 7 Beech Lane where the Inspector allowed the conversion of a bungalow to a chalet bungalow. I do not have the full details of that case, however, the extracts from that decision indicate that there was some harm, albeit very limited. Despite the degree of harm equated to that scheme, it will be harm nonetheless and should, according to the Framework, be given substantial weight. There are no details in the extracts given of how that harm was balanced against other considerations for me to understand the Inspector’s reasoning and ultimate decision. Accordingly, that case is not sufficiently comparable to the scheme before me to alter my findings.
18. Consequently, the proposal will have a greater impact on the openness of the Green Belt than the existing development. In doing so it will cause harm to the openness of the Green Belt. The development will therefore not meet the criteria in Paragraph 149 (g) of the Framework. Therefore, it will be a form of inappropriate development which, by definition, will be harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore, the development will not keep the land permanently open and, having regard to the Supreme Court judgement and the circumstances of the appeal site, I conclude that the development proposed will also conflict with the fundamental aim of Green Belt policy as set out above.
19. The Council considers that additional incidental buildings, such as the proposed garage, which fall outside the scope of residential permitted development rights do not fall within any of the exception categories listed in the Framework. For this reason, the garage represents inappropriate development in the Green Belt. Even though I have assessed the scheme differently, it will nevertheless still be inappropriate development.

Character and appearance

20. The proposed garage is finished in grey metal sheeting, whilst having a functional design. Although larger in scale it will be consistent with the shape, colour and materials used to construct the existing sheds, located a short distance to the north. The garage will also be seen in context with the large farm buildings to the south. The roofs of those buildings appeared to be clad in corrugated metal sheeting and visibly rise above the adjacent boundary wall. Taken as a group those adjacent structures are consistent with the appearance of the proposed garage.

The garage is located a considerable distance from the main house; therefore, its design and use of materials will not be seen to harm the dwelling's more refined domestic appearance.

21. In concluding on this issue, the proposed development will not harm the character and appearance of the area. Therefore, it will comply with Policy HE3 of the Local Plan. This, in part, requires development to protect the landscape character, setting and visual amenity of the area. It will also accord with the Framework where it seeks to ensure development is sympathetic to local character.

Other considerations

22. As stressed by paragraph 148 of the Framework, 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.
23. The Council's Officer's Report indicates the appellant's requirement to keep his private cars under cover and garaged for insurance and security reasons, while an existing garage is not big enough.
24. I have not been presented with any detailed evidence relating to those requirements from the appellant, nor is there any evidence before me to demonstrate that the appeal development is the only means by which such needs may be met. Therefore, I attach only minor weight to this matter.
25. There were no objections from local residents, whilst I have found the scheme to be acceptable in respect to local character and appearance. However, a lack of objection does not indicate a lack of harm, as I have found in the case of the proposal, therefore, I have given little weight to this.

The Green Belt Balance and Conclusion

26. The proposal will constitute inappropriate development in the Green Belt, which is, by definition, harmful to the green belt and should not be approved except in very special circumstances. It will also result in some harm to the openness of the Green Belt. Paragraph 148 of the Framework requires me to give substantial weight to any harm to the Green Belt.
27. The other considerations do not clearly outweigh the totality of the substantial harm that arises as a result of the development's inappropriateness and its impact upon the openness of the Green Belt. The very special circumstances necessary to justify the proposal do not therefore exist.
28. For the reasons set above, I dismiss the appeal.

RE Jones

INSPECTOR