
Appeal Decision

Site visit made on 31 January 2023

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2023

Appeal Ref: APP/P1940/D/22/3297543

Riverside, Old Mill Road, Hunton Bridge, Kings Langley WD4 8QT

- 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 Victor Gutsul against the decision of Three Rivers District Council.
 - The application Ref 21/2778/FUL, dated 3 December 2021, was refused by notice dated 25 February 2022.
 - The development proposed is construction of detached outbuilding containing bar.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the Council's description of the development in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant's appeal form also makes reference to the updated description.

Main Issues

3. The main issues are the effect of the proposed development on
 - (i) Whether the proposal would be inappropriate development and the effect of the development on the openness of the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - (ii) the effect on flood risk and the adjacent watercourse to the Grand Union Canal; and
 - (iii) 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

Green Belt

4. The appeal site forms part of the garden area at the rear of a large detached two storey dwelling with associated outbuildings and structures. It is located on

- a large spacious landscaped plot adjacent to the Grand Union Canal and River Gade that gives an open and verdant character and appearance to the area.
5. 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.
 6. 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.
 7. Paragraph 149 of the Framework establishes that, within Green Belts, the construction of new buildings is inappropriate, subject to a number of exceptions, including the extension or alteration of a building.
 8. Policy DM2 of the Three Rivers District Council Development Management Policies Local Development Document 2013 (DMP) advises that proposals for new buildings in the Green Belt will be assessed in accordance with the Framework. However, it also supports the provision of ancillary buildings in Green Belt subject to demonstrating, amongst other things, that the proposal would be of a scale and design clearly subordinate to the dwelling and would not adversely affect the openness of the Green Belt and the landscape.
 9. The proposed detached outbuilding measuring about 11.5m in length by 4.2m in width would be constructed with a vendetta and a mono-pitched roof with a maximum height of about 4.2m. The internal layout shows a bar and seating, including tables, chairs and barstools. It would be located on an enclosed garden area, including a small shed, at the rear of the property. The Council advises that the outbuilding would be about 60 metres from the host property.
 10. It is clear from the evidence provided and from my observations during my site visit that, given the screening provided by the mature landscaping and boundary fencing around the site and topography of the site and immediate surroundings, the proposed outbuilding would not be highly visible in the wider area. Nonetheless, on a more local level, the scale and form of the outbuilding would not amount to a subservient form of development on the appeal site in its current open and largely undeveloped form. The proposed outbuilding 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. Given the distance from the main dwelling and the lack of proximity between the host property and the land on which the outbuilding would be constructed, I am satisfied that this proposal cannot be considered as an extension or alteration to the main house. Equally, given the scale, design and layout of the outbuilding, I am not persuaded that the proposed outbuilding would clearly be subordinate and as such would form an ancillary use to the main dwellinghouse in this particular case.
 12. As such, it would not satisfy the exceptions set out in paragraph 149 of the Framework. 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 nor Policy DM2 of the DMP.

13. 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. The development would result in harm to the openness of the Green Belt and as such would conflict with Policy DM2 of the DMP and the aims of the Framework. In accordance with the Framework, I attach substantial weight to the harm arising due to the inappropriate nature of the development in this location and the impact on the openness of the Green Belt.

Flood Risk

14. The appeal site is located in Flood Zone 2 and 3 according to the Environment Agency's Flood Mapping for the area, where there is a medium-high probability of fluvial flooding. The development of the site would inevitably increase the need for appropriate measures to deal with potential flood risk.
15. The proposed outbuilding would be about 5.0m from the watercourse to the Grand Union Canal and within the 8.0m wide buffer zone of a main river as defined by the Environment Agency. In this respect I am mindful of the objections received from the Environment Agency that the proposed outbuilding would potentially restrict essential maintenance and emergency access to the watercourse, adversely impact the stability of the flood bank, could interfere with natural geomorphological process and be placed at risk of damage arising from channel migration and erosion.
16. I note the appellant's willingness to submit information to assess the potential impact of the development. However, no information or any substantive evidence has been submitted by the appellant to assess the impact of the proposed outbuilding on flood risk and the adjacent watercourse.
17. Consequently, in the absence of any convincing evidence to the contrary, I conclude that the proposal has failed to adequately address the potential adverse impacts of the proposed development on flood risk and adjacent watercourse to the Grand Union Canal. It would be contrary to Policy CP1 of the Three Rivers District Council Core Strategy 2011 and Policy DM8 of the DMP, that, amongst other things, seek to avoid development in areas at risk of flooding, provide appropriate flood protection and mitigation measures and ensure development is normally set back from a main river with a minimum 8m wide buffer zone to prevent any significant impact from flooding.
18. In addition, it would not accord with the aims of the Framework that seek to reduce the potential risk of flooding and ensure that, where development is necessary in areas at risk of flooding, it should be made safe for its lifetime without increasing flood risk elsewhere (paragraph 159).

Other Considerations

19. I have considered the appellant's arguments that the design and layout of the proposed outbuilding has been carefully considered in order to minimise any impacts on the area. However, whilst the use of 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. I have considered the various benefits put forward by the appellant that the proposal would bring, including the scheme's high quality design, the intended use of the proposed outbuilding for private use only and meeting the needs of

the appellant's family. Overall, these are benefits that would result in moderate weight in favour of the appeal scheme.

Very Special Circumstances

21. 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 potential adverse impacts on flood risk and adjacent watercourse to the Grand Union Canal to which I attach significant weight.
22. Having considered all of the matters raised in support of the proposed 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 DM2 of the DMP and the Framework.

Conclusion

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

David Troy

INSPECTOR