



Appeal Decision

Site visit made on 24 January 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/J1535/D/22/3294316

Oakwood, Toothill Road, Ongar CM5 9LH

- 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 Matthew Bayford against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/3203/21, dated 10 December 2021, was refused by notice dated 15 February 2022.
 - The development proposed is removal of existing timber framed log store and replacement with double timber frame garage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council have referred to Policies DM4, DM5, DM9 and SP6 of the emerging Epping Forest District Local Plan Submission Version (2017) (the LPSV). The LPSV has not yet been adopted by the Council as part of its development plan. However, it has been through the examination process and has reached an advanced stage. Moreover, I am not aware of any unresolved objections to the policies that I have been referred to insofar as they relate to this appeal. As such and given the policies' level of consistency with the National Planning Policy Framework (the Framework), I have applied significant weight to them.

Main Issues

3. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the street scene in Toothill Road, including from any effects on trees; and
 - If it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate development

4. Policies GB2A and GB7A of the adopted Local Plan (LP) and emerging Policies SP6 and DM4 of the LPSV seek to protect the Districts' Green Belt. Apart from several exceptions these are broadly consistent with the Framework.
5. Paragraph 149 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development. However, it lists certain forms of development which are not regarded as inappropriate. This includes 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 (paragraph 149(c)). Alternatively, the list of exceptions also includes the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 149(d)).
6. The proposed garage would be located to the southeast of the host property and although clearly located in its grounds, it is physically divorced due to the distance from the property. Given the extent of the separation distance, in my view, it would not constitute an extension to the host property and would not fall to be considered against paragraph 149(c) of the Framework.
7. Even if I were to consider the proposal under paragraph 149(c), the council advise that previous developments have resulted in an increase in volume of approximately 70% from the original building. There is no definition of disproportionate development within any of the policies I have been referred to or within the Framework. However, in the absence of any substantive evidence to the contrary, the additional volume from the proposed garage, following the removal of the log store would, in any case, represent a disproportionate addition. The proposal would thus not accord with paragraph 149(c) in any case.
8. The existing log store is an ancillary structure, and the proposed garage would fall within the same use. However, the log store has a very small footprint and volume, and the garage would be materially larger. The proposal would thus not accord with paragraph 149(d).
9. In the absence of any other relevant exception, I find that the proposal would be inappropriate development in the Green Belt. It would therefore be at odds with Policies GB2A and GB7A of the LP, Policies SP6 and DM4 of the LPSV, and the Framework, when taken together and insofar as they relate to this matter.

Openness

10. As set out in paragraph 137 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness both visually and spatially.
11. There is an existing log store in situ. However, the proposal for a replacement double garage would be a much larger building, both in floor area and volume, albeit it would still be a modest sized building overall. It would be in a more open part of the grounds of the host property, although there are trees in situ that would provide some screening from Toothiil Road. In this regard, due to its

greater size than the existing structure and its positioning, there would be a small loss of openness within the Green Belt both spatially and visually.

12. I therefore conclude that the proposal would lead to a loss of Green Belt openness and would impact on the purposes of including the land within the Green Belt, albeit to a small degree. Therefore, it would be contrary to the relevant Green Belt guidance within the Framework, Policies GB2A and GB7A of the LP and Policies SP6 and DM4 of the LPSV, when taken together and insofar as they relate to this matter.

Street scene

13. This part of Toothill Road is characterised by large, detached properties set back from the road. The prevalence of fields, and the extent of trees and shrubs in the grounds of the houses gives the area a distinctly semi-rural character, as the housing gives way to the wider open countryside.
14. The proposed garage would be positioned forward of the host property, but it would be set behind three maturing trees, two of which are evergreen species. In this regard, I saw during my site visit that even during the winter months the trees would limit the extent of views of the garage in the street scene.
15. The appellant has provided a Method Statement within the appeal submission outlining how the development would be undertaken in relation to the trees. However, I have no firm evidence that this has been prepared by a suitably qualified individual. Moreover, the Method Statement does not provide substantive evidence as to whether the positioning of the building would compromise the roots or long-term health of the trees. Such loss or damage would incrementally erode the semi-rural qualities of this part of the street. I cannot therefore be satisfied, from the information before me, that the trees could be relied upon to soften the building in the long term.
16. It would not be appropriate to require details relating to the protection of trees by way of a condition, were I minded to allow the appeal, as I have no certainty that the scheme could be implemented without prejudicing the health of the trees.
17. The use of red tiles and black timber cladding for the proposed garage would match the host dwelling. Moreover, the positioning forward of the main dwelling would not be the only outbuilding within the group of properties that would have this relationship. Nonetheless, I saw from the examples that exist, that where prominent, this can erode the active frontages of dwellings to the street. In this regard, these aspects do not outweigh my concerns arising from its positioning.
18. I therefore conclude that the proposal would have a harmful effect on the street scene in Toothill Road, including from the effects on trees. As such, I find conflict with the requirements of Policies LL10, CP2 and DBE10 of the LP, Policy DM5 and DM9 of the LPSV and paragraphs 126, 130 and 180 of the Framework when taken together. These stipulate, amongst other things, that decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Other considerations

19. The Framework states 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 proposed development, is clearly outweighed by other considerations.
20. I understand that the garage might meet the appellant's need for increased storage and would improve the provision from the existing log store. However, personal circumstances will seldom outweigh more general planning concerns. As such, I afford this consideration limited weight within the decision. The absence of harm in relation to other considerations, such as surface water management, are neutral matters that weigh neither for nor against the proposal.
21. I have been referred to several approved schemes at nearby properties within the Green Belt. However, I do not have the full details of these schemes, including in relation to the precise size of the original buildings, volumes created from the resulting development, the relationship to trees or the development plan policies relevant at the time. As such, I can not be sure that they represent a direct parallel to the appeal proposal before me. In any case, I have determined the appeal on its own merits.

Conclusion

22. The proposal would be inappropriate development in the Green Belt. Paragraph 148 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm. Moreover, the proposal would have a small but harmful effect on the street scene in Toothill Road, including from the effects on trees.
23. In this instance the other considerations do not clearly outweigh the substantial weight given to the harm to the Green Belt by reason of inappropriateness and the other harm I have identified. As such, the very special circumstances necessary to justify the proposal do not exist. The proposal would be contrary to national policy in the Framework, Policies GB2A and GB7A of the LP, Policies SP6 and DM4 of the LPSV, when taken together and insofar as they relate to this matter.
24. To conclude, the proposal would conflict with the development plan when read as a whole and there are no material considerations that would outweigh that conflict.
25. For the reasons given above, the appeal is dismissed

Mr R Walker

INSPECTOR