



Appeal Decision

Site visit made on 6 February 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2023

Appeal Ref: APP/T0355/W/22/3306528

Tythe Barn, Dean Lane, Cookham SL6 9BB

- 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 P Langton against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 22/00248, dated 27 January 2022, was refused by notice dated 16 June 2022.
 - The development proposed is described as the 'Demolition of existing garage and replacement with new triple garage and home office space with roof space'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application plans, written description and planning statement are clear in that the proposal is to replace an existing garage building with a new garage/home office building. This is what was considered by the Council. However, the appellants appeal statement refers to a separate steel framed PVC covered structure that provides an additional garage space. The additional removal of this building is also included in the appellants appeal statement calculations with regards to floorspace, however, it is not clear from the evidence that this is a permanent building that should properly be taken into account. Furthermore, given that this outbuilding is not shown on any plan, I have no mechanism to secure its removal.
3. Moreover, this represents an amendment to the submitted scheme and, under the principles established by the Courts in *Wheatcroft*¹, to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore considered the appeal on the basis of the scheme and plans considered by the Council.

Main Issues

4. The appeal site is located within an area of Green Belt. Accordingly, the main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt; and

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

- If the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

5. The Framework states that the construction of new buildings is to be regarded as inappropriate development subject to the exceptions which are set out in paragraph 149. Part d) of this paragraph lists the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
6. I acknowledge that the Framework does not define 'materially larger'. The appellant indicates that the existing outbuilding measures 19.88m² and the replacement would be 57.85m². This would be a significant increase. Moreover, the replacement outbuilding, which includes two dormers and an external staircase, would also be clearly taller. This would then amount to a substantial increase in the form, bulk and overall scale and size of the original building. The proposed structure would therefore be materially larger than the one it replaces.
7. Part c) of Framework paragraph 149 also 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. It has been established² that whether a detached structure would amount to an extension of the existing building is a matter of fact and degree.
8. The building would have a functional relationship with the house inasmuch as it would be an ancillary structure, but it would be a large structure physically remote from the house, sited on the extremities of the site with a large tree in between it and the house. Whilst the size of the plot is large, the location of the proposed carport would be too far from the house for it to be reasonably regarded as an extension to the house itself, or indeed any other building. In this instance therefore the provisions of Paragraph 149c) do not apply, and I have not considered matters relating to disproportionality. This is therefore materially different to the findings of the Inspector in the referenced appeal decision³.
9. The appellant refers to other outbuildings nearby, however no details are provided of their planning history. As such, I cannot give any weight to these existing structures.
10. In light of the above, I conclude that the proposal would result in inappropriate development in the Green Belt. It would therefore conflict with Policy QP5 of the Royal Borough of Windsor and Maidenhead Borough Local Plan 2013-2033 (2022) (LP) which requires development within the Green Belt to comply with the Framework.

² Sevenoaks District Council v SSE and Dawe [1997]

³ APP/D/3640/D/20/3262305

Openness

11. The Framework makes it clear that openness is an essential characteristic of the Green Belt. Whilst set down from the road height and located behind the frontage vegetation, the additional height and scale of the replacement outbuilding would be visible from Dean Lane and the footpath running along the side of the property. There would be therefore a visual impact upon openness, in addition to the spatial impact that would result, and openness would be reduced.

Other Considerations

12. The appellant makes reference to health issues and the likely need for specialist vehicle space, although I have no evidence as to what type of specialist vehicle may be required. I am mindful of the Public Sector Equality Duty arising from Section 149 of the Equalities Act 2010 (the Act). The Act sets out the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This involves having due regard, in particular, to the need to eliminate discrimination, advance equality of opportunity and foster good relations between people who share a relevant protected characteristic and those who do not. Amongst other things, for the purposes of the Act protected characteristics includes disability.
13. I have given the family's personal circumstances very careful consideration. Whilst the development offers some benefits to the appellant's family there is no compelling evidence that without the development the family would be unable to provide space for any specialist equipment/vehicles that may be necessary. As such, in this instance, this benefit carries little weight.
14. The proposal would provide additional space for the appellant to keep classic cars, for the display and storage of photographs, a WC and a home office. However, it has not been demonstrated why this could not be provided within the large main house, or the existing other outbuildings around the appeal site.
15. The existing outbuilding is in a poor state of repair and the replacement building would be an improvement in terms of materials and quality. This attracts some limited weight in favour of the scheme.

Conclusion

16. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. Even when taken together, I conclude that the other considerations do not clearly outweigh the harm in this case. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal is therefore contrary to LP Policy QP5 and guidance contained in the Framework relating to Green Belts.
17. For the reasons given above I conclude that the appeal should be dismissed.

B Phillips

INSPECTOR