



Appeal Decision

Site visit made on 20 February 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2023

Appeal Ref: APP/W1525/D/22/3301060

Eweland Hall Lodge, Main Road, Margaretting, Ingatestone CM4 9HU

- 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 Joe Bronze against the decision of Chelmsford City Council.
 - The application Ref 22/00505/FUL, dated 9 March 2022, was refused by notice dated 28 April 2022.
 - The development proposed is described as 'retrospective planning application for retention of cart lodge'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The cart lodge has already been built.

Main Issues

3. The main parties agree that the cart lodge is inappropriate development in the Green Belt. Therefore, the main issues are:
 - the effect of the development on the openness of the Green Belt;
 - its effect on the character and appearance of the Margaretting Conservation Area; and
 - whether other considerations clearly outweigh the harm to the Green Belt, and any other harm, so as to amount to very special circumstances to justify the development.

Reasons

Openness of the Green Belt (GB)

4. Eweland Hall Lodge is a previously extended detached house in a large garden on the north side of Main Road. It faces a private drive, end on to the road on the edge of Margaretting. The cart lodge is sited forward of the house and to one side, closer to the road. It is enclosed on three sides and provides two covered car parking bays. This part of the site was previously part of the gravel courtyard in front of the house.
5. The visual presence of the cart lodge in the GB is limited because it is not a large building, is grouped with the house, proportionate in size to the house as it exists now and sited within the garden. However, it is built from where there was none previously which has a permanent spatial presence. As a result, this

part of the site is no longer 'open' in any equivalent or comparative sense to its original condition even though cars were previously parked on it. Albeit a small loss, this has reduced the openness of the GB which is one of its essential characteristics.

6. The development does not, therefore, comply with the Council's Local Plan¹ (LP) policy S11 which aims to protect the openness and permanence of the GB.

Character and appearance of the Margaretting Conservation Area (CA)

7. Designated heritage assets, such as conservation areas, are an irreplaceable resource and should be conserved in a manner appropriate to their significance. The significance of the CA includes a frontage of dwellings and smaller outbuildings along the north side of Main Road, including the house. Most of this development is traditional in design and external materials, with clay tile or natural slate hipped or gabled roofs and brick, render or horizontal timber weatherboard elevations. This is locally distinctive.
8. The cart lodge incorporates high-quality hand made plain clay roof tiles, oak posts and beams and horizontal timber weatherboarding. These materials are in-keeping with the house and other development in this part of the CA, as is the siting of the cart lodge. It is also subservient in size to the house.
9. However, at the rear a large section of the cart lodge has a flat felt roof. Though well-constructed and that it restricts the overall scale and massing of the building, it jars with the shallow, dual pitched tiled roof at the front. As such, the roof is not cohesive in shape or materials and nor are these disparate features sympathetic to the design of a traditional cart lodge. The flat roof is also at odds with the prevailing pitched roof form of the house, another outbuilding in the garden and nearby buildings in this part of the CA. The cart lodge backs onto the road. While partly screened by planting and not unduly high, the flat roof protrudes appreciably above a boundary fence. It is visible from both pavements, less so in summer months when all planting is in leaf.
10. This development is small-scale and incremental in nature but by virtue of the flat roof the cart lodge does not preserve or enhance the character or appearance of this part of the CA or the CA overall. There are other considerations in this appeal but none of them comprise public benefits that outweigh the harm to the CA. Consequently, the development does not comply with LP policies S3 and DM13 which seek to conserve and enhance the historic environment and ensure that in siting, design and materials development preserves or enhances the character or appearance of conservation areas.

Other Considerations

11. The Council previously granted planning permission in 2016 for development at the site, including a detached two-bay cart lodge but it was not built². It maintains that this permission is no longer extant. That cart lodge would not have been significantly smaller than the existing cart lodge. Albeit that it would have been sited on the other side of the house, it would have had a similar visual and spatial presence in the GB. The relative effect on the openness of the GB compared to the existing car port would therefore have been little different. I give significant weight to this consideration.

¹ Chelmsford Local Plan May 2020

² 16/00053/FUL

12. A young child who resides in the house has special educational needs and is being assessed in respect of a potential related medical condition, as confirmed after recent referral by a private specialist and a letter from the NHS. These circumstances have longer term health and wellbeing implications for the child who also requires close attention and support at home. The proximity of the largely enclosed cart lodge to the front of the house reduces external influences or distractions for the child at the beginning and end of car journeys, including travel to school or for treatment. It also provides some safety and reassurance from the possible hazard of falling branches or trees compared to car parking spaces. These reasonable adjustments are important for these day-to-day activities in the appellant's private family life and the best interests of the child are a primary consideration. I give significant weight to these personal circumstances.
13. The cart lodge has no adverse effect on internal or external living conditions at the site, nor on the existing occupiers of any nearby dwellings. The absence of harm in these respects is a neutral factor.

Green Belt Balance

14. The cart lodge is inappropriate development which is, by definition, harmful to the GB. The limited harm to the openness of the GB in this case is nonetheless at odds with local and national policy to protect the GB. Any harm to the GB is a matter that carries substantial weight. Additionally, there is less than substantial harm to the CA, which is a matter of considerable importance and weight, irrespective of the level of harm to the significance of the CA.
15. On the other hand, the harm to the GB in this case is not materially different in principle to comparable development that has been approved at the site, albeit a few years ago. I also acknowledge that the development is integral to the appellant's immediate and foreseeable future family life. However, any harm to, or loss of, the significance of the CA due to the flat roof requires clear and convincing justification. There is no evidence that this roof design is the only alternative to meet the child's needs or that the appellant's personal circumstances will not change as the child becomes older. Whereas the cart lodge is otherwise a permanent building in the CA and harm would endure.
16. I recognise that dismissing the appeal would interfere with the appellant's family life³ and the best interests of the child⁴. I have also had due regard to the age and disability protected characteristics in this appeal for the purposes of the Public Sector Equality Duty⁵, including the need to eliminate discrimination and advance equal opportunity.
17. Nevertheless, these factors must be weighed against the wider public interest. For the reasons given above, the development harms the GB and does not conserve the CA. I am satisfied that these legitimate aims can only be adequately safeguarded by the refusal of permission for the development that has taken place. I therefore consider that dismissing the appeal for these reasons would be a proportionate outcome.

³ Article 8(1) of the Human Right Act 1998

⁴ Article 3(1) of the United Nations Convention of the Rights of the Child

⁵ Section 149 of the Equality Act 2010

18. The other considerations outlined above do not, therefore, clearly outweigh the totality of the harm. Consequently, very special circumstances to justify the development do not exist.

Planning Balance and Conclusion

19. The development does not accord with the development plan. There are no other considerations, including the provisions of the Framework, to indicate that the decision should not be made otherwise than in accordance with the development plan.
20. Consequently, for the reasons given above the development is unacceptable and the appeal does not therefore succeed.

Robin Buchanan

INSPECTOR