



Appeal Decision

Site visit made on 28 March 2023

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2023

Appeal Ref: APP/H2265/D/22/3290878

The Fountain, 523 Bullen Lane, East Peckham, Tonbridge, TN12 5LP

- 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 John Cove against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/02212/FL, dated 9 August 2021, was refused by notice dated 25 October 2021.
 - The development proposed is the erection of a new oak framed three bay barn hipped single storey garage measuring 9.0m x 5.5m that comprises of two double doors and one car port.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I note the very detailed description of development given on the application form. The more succinct description used in the banner heading above is that used on the decision notice and the appeal form.

Main Issues

3. The main issues in the appeal are:
 - Whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the *National Planning Policy Framework* (the Framework) having regard to the effect of the proposal on the openness of the Green Belt;
 - If the proposal 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 it.

Reasons

Whether inappropriate development

4. The appeal site is located in the Green Belt as defined by the *Tonbridge and Malling Core Strategy (adopted September 2007)* (CS) where Policy CP3 indicates that proposals will be assessed against national Green Belt policy. Paragraphs 149 and 150 of the Framework set out the forms of development that are not inappropriate in the Green Belt. Paragraph 149 of the Framework

indicates that new buildings in the Green Belt are inappropriate unless they are for one of a limited number of exceptions.

5. The appeal scheme proposes a detached garage located to the north of the dwelling, adjacent to the boundary of the property and parallel with the long single storey side element of the dwelling. The land between the house and the proposed site for the garage is currently an area of hardstanding and a lawn. The proposed building would be a linear, single storey structure with a barn hipped roof to match the main dwelling. It would incorporate 3 bays, one of which would be open at the front.
6. Paragraph 149 c of the Framework allows 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.
7. Case law¹ indicates that extensions can include structures which are physically detached from the building of which they are an extension. However, case law does not set a distance at which a freestanding building should, or should not, be considered an extension. In addition, there is no evidence before me to indicate that the development plan provides any guidance for when a detached outbuilding may be considered to form part of a dwelling. As such, this is a matter for the decision maker to assess.
8. Located on the northern boundary of the site there would be a considerable distance between the proposed building and the closest part of the house. As such, the proposed building would be both physically and visually separate from the host dwelling. So, in my judgement, this is not a case where the proposed development could be considered to be a normal domestic adjunct, even though it would be within the residential curtilage and its function would be related to the main dwelling. Therefore, I do not consider it is reasonable to regard the proposed building as an extension to the host property, and so it would not fall under exception c) of paragraph 149 of the Framework.
9. The appellant has argued that the proposal should be considered under paragraph 145 d) of the Framework. This allows the replacement of a building, providing the new building is in the same use and is not materially larger. In support of this they have provided an aerial photograph from the 1980s showing a building on the area to the side of the house. However, this building has been demolished, presumably some time ago if there are no more recent photographs of it. So, as this building no longer exists on the site, this exception cannot apply as there is no building to be replaced.
10. It is also suggested by the appellant that the proposal could be considered under paragraph 149 g) which concerns the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt.
11. I have been provided with little evidence to show whether or not the appeal site would meet the definition of previously developed land given in the Framework. The site currently forms part of the garden of the property.

¹ Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin) and Sevenoaks District Council v Secretary of State for Environment and Dawe [1997] EWHC Admin 1012

Gardens that are not in built-up areas are considered to be previously developed land in the Framework definition. Whilst the appeal property forms one of a number of houses located around the junction of Bush Road and Bullen Lane, the wider area is largely agricultural and from what I saw this is not what would commonly be described as a built up area. So, in the absence of any evidence to the contrary, the garden can be considered to be previously developed land.

12. On the basis that the appeal scheme would constitute the partial redevelopment of this part of the garden, to fall within this exception, the proposal must also not have a greater impact on the openness of the Green Belt than the existing development.
13. Openness is an essential characteristic of the Green Belt that has visual as well as spatial aspects. The hedging along the side and front boundaries of the garden would limit views of the garage building, nonetheless the top of the building would be visible from the footpath adjacent to the site and from the road. The proposal would therefore visually impact on the openness of the Green Belt.
14. In addition, the proposal would introduce a substantial built form onto what is currently open land. Even if the existing greenhouses in this part of the garden were to be removed, the scale, mass, and bulk of the proposal would be significantly greater than these lightweight, temporary structures. Its separation from the main dwelling, would result in the spread of the built form across the site to its northern boundary, and this part of the garden would not be 'open' in any equivalent or comparative sense to its present condition.
15. As such, the proposal would both spatially and visually erode the openness of the Green Belt. Consequently, as the proposal would have a greater impact on the openness of the Green Belt, it would not accord with paragraph 149 g) of the Framework.
16. In the light of the above, the proposal would result in a new building that does not accord with any of the exceptions given in paragraph 149. It would therefore be inappropriate development, which according to paragraph 147 of the Framework is, by definition, harmful to the Green Belt. In addition, there would be a degree of harm arising from the loss of openness.

Other Considerations

17. The design of the building and its materials would be sympathetic to the host property and the rural character of the wider area, and the scale and mass of the building would be subordinate to the house. In addition, although no evidence has been provided to support the assertion that the building to plot ratio would remain consistent with other properties in the area, I am satisfied that the proposal would not result in the over-development of the site. Moreover, it is not disputed that both detached and integrated garages of varying designs and materials are a common feature in the locality. Overall, I consider the proposal would not harm the character and appearance of the host property or the surrounding area. Nevertheless, an absence of harm in this regard is a neutral factor.
18. It is stated that at present the access to the property is not safe as there is insufficient space for a vehicle to turn so it can enter and exit the site in

forward gear. Nonetheless, I am not persuaded that the construction of a three bay garage building is necessary to enable the provision of a turning space for vehicles. As such, I give this minimal weight.

19. The appellant states that the proposal would comply with policies CP11 and CP12 of the CS. Reference is also made to the fact that Policy CP14 refers to extensions to an existing building and development necessary for the purposes related to the viability of a farm. None of these are policies that the reason for refusal or the Officer's report refers to. Moreover, there is no evidence to suggest that the garage is necessary for the viability of a farm, and I have concluded above that the proposal cannot be considered an extension to the dwelling. Even if the proposal does comply with Policy CP11 and CP12, an absence of harm would be a neutral matter.

Other Matters

20. The dwelling opposite the appeal site is a Grade II Listed Building. The Council have stated that the proposal would not have a detrimental impact on its setting or significance. Given, the scale and nature of the proposal together with the distance it would maintain to the Listed Building, I agree with the Council's conclusion and consider the proposal would preserve the setting of the Listed Building. However, this lack of harm would also be a neutral factor.

Planning Balance and Conclusion

21. The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, there is a degree of harm arising from the loss of openness. In accordance with paragraph 148 of the Framework, I attach substantial weight to the harm to the Green Belt. In addition, the proposal would not be a suitable form of development in the open countryside. Overall, I consider that the benefits cited in the scheme's favour do not clearly outweigh the harm it would cause. Consequently, the very special circumstances necessary to justify the development do not exist. As a result, it would be contrary to Policy CP3 of the CS and the Framework. Therefore, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR