



Appeal Decisions

Site visit made on 25 April 2023

by Thomas Shields DipURP, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 May 2023

Appeal A Ref: APP/J1535/C/22/3300183

Land at 20 Forest Drive, Fyfield, Ongar, CM5 0TP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act").
 - The appeal is made by Mr Jonathan Menelaou against an enforcement notice issued by Epping Forest District Council.
 - The notice was issued on 18 May 2022.
 - The breach of planning control as alleged in the notice is Without planning permission: The erection of an outbuilding over 2.5 metres in height, and within 2 metres of a boundary shown in the approximate position edged and hatched black on the attached plan.
 - The requirements of the notice are:
 - i) Remove from the land the unauthorised outbuilding which is shown in the approximate position edged and hatched black on the attached plan.
 - ii) Remove all resultant debris from the land following compliance with step i) above.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/J1535/W/22/3298088

20 Forest Drive, Fyfield, Ongar, CM5 0TP

- 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 Jonathan Menelaou against the decision of Epping Forest District Council.
 - The application Ref PL/EPF/0081/22, dated 4 February 2022, was refused by notice dated 6 April 2022.
 - The development proposed is 3m high timber playroom at the rear of 20 Forest Drive.
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DECISIONS

Appeal A

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Both appeals relate to the same matter; a flat roof timber outbuilding used as a playroom measuring approximately 2.4m x 2.4m x 3m height. It is located in a corner position adjacent the side and rear boundaries of the rear garden of the appeal site, and within the Metropolitan Green Belt. To avoid duplication I have dealt with both appeals together.
4. On 6 March 2023 the Council adopted the Epping Forest Local Plan 2011-2033 and which is now the statutory Development Plan. It supersedes the policies of the Local Plan (1998) and Local Plan Alterations (2006). Accordingly, I attach full weight to the new Local Plan (LP) policies which were referred to previously as emerging policies in the Council's reasons for refusing planning permission and issuing the enforcement notice.

Main Issues

5. The main issues in the appeals are:
 - (i) whether the development is inappropriate development in the Green Belt;
 - (ii) the effect on the character and appearance of the area and upon the living conditions of occupiers of adjacent properties with regard to outlook and privacy; and
 - (iii) whether any harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Issue (i) - Whether inappropriate development in the Green Belt

6. National planning policy with regard to Green Belts is set out in the Framework¹ and is reflected in LP Policy DM4. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence.
7. Other than a limited range of exceptions listed at Framework paragraph 149 and LP Policy DM4, the construction of new buildings in the Green Belt are to be regarded as "inappropriate development". Given the outbuilding's position, footprint and height, I find it fails to preserve the openness of the Green Belt in both spatial and visual terms. As such, the outbuilding does not fall into any of the listed exceptions and thereby constitutes inappropriate development in the Green Belt.
8. In accordance with Framework paragraphs 147 and 148 inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in "very special circumstances". Accordingly, I attach substantial weight to this harm to the Green Belt.

Issue (ii) - effect on character and appearance and living conditions

¹ National Planning Policy Framework (2021)

9. I consider the outbuilding to be overly tall and prominent in various views. This is emphasised by its two storey appearance resulting from the four windows on its front elevation. (It has a mezzanine floor internally). As such, against the context of relatively small outbuildings in the rear gardens of surrounding properties, it fails to respond positively to the prevailing character and appearance of the area resulting in a degree of limited further harm.
10. The windows of the outbuilding face back towards the rear garden and house. Given this orientation, and since the outbuilding directly abuts and extends above the dividing side boundary fence with the neighbouring property (No.22), there is a clear perception of being overlooked and loss of privacy for occupiers of that property from the upper two windows. This results in harm to their living conditions. While I note the upper two windows are blacked out, and could be made permanently so, that would not mitigate the perception of being overlooked for occupiers of No. 22. Even if the windows were removed and filled, this would not overcome the harm I have identified to the character and appearance of the area.
11. I have considered whether the imposition of planning conditions would make the development acceptable, however there are none that would do so.
12. Taking these factors together I find there to be significant harm resulting from the outbuilding's effect on the character and appearance of the area and the living conditions of occupiers of No. 22. It thereby conflicts with LP Policy DM9 which, amongst other matters, requires developments to relate positively to their context and take account of the privacy and amenity of neighbours.

Issue (iii) – whether any harm is outweighed by other considerations

13. There are no other considerations before me which would amount to the very special circumstances necessary to overcome the harm to the character and appearance of the area, the living conditions of neighbouring occupiers, or to the Green Belt through inappropriateness.

Conclusion

14. As set out earlier, I attach substantial weight to the harm to the Green Belt through inappropriateness. Further harm resulting from the effect on the character and appearance of the area and the living conditions of adjacent occupiers attracts additional weight. Against this, no convincing evidence has been submitted to demonstrate that very special circumstances exist and, having regard to all of the evidence before me, I am unable to conclude otherwise.
15. For all these reasons the appeals must fail.

Thomas Shields

INSPECTOR