



Appeal Decision

Site visit made on 20 March 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2023

Appeal Ref: APP/H2265/D/22/3294697

Caterways Cottage, Old Soar Road, Plaxtol, Sevenoaks TN15 0QX

- 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 and Mrs Mark and Julie Prior against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/02419/FL, dated 3 September 2021, was refused by notice dated 22 December 2021.
 - The development proposed is the construction of a 1.5 bay oak-framed garage to the side of Caterways on the existing parking area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy (Adopted 2007) (CS), states that national Green Belt policy will be applied generally to the area west of the A228, including the appeal site.
4. Paragraph 149 of the Framework, states that the construction of new buildings should be regarded as inappropriate, subject to the exceptions listed. The appellants contend that the proposal meets the exceptions listed under criteria c) and g) of the Paragraph 149 of the Framework.
5. The exception in criterion c) is: *"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"*.

6. I have had regard to the floor space figures provided for the original building, the extensions to it and the proposed appeal building. I note that the proposal would result in the dwelling being more than double its original size. Whilst no figures have been provided for the volumes of the respective buildings, I have nonetheless taken account of the physical scale 'on the ground' of those previous extensions to the building as described in the information before me. Even if I were to consider the proposal as an extension to the building, I find that the proposed building would amount to a disproportionate addition over and above the size of the original building. As such, the development is inappropriate when considered against this criterion.
7. The exception in criterion g) is: *"limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings) which would: not have a greater impact on the openness of the Green Belt than the existing development..."*
8. If I assess the development against criterion g) I must assess its impact on openness and consider whether the proposal would have a greater impact on the openness of the Green Belt than the existing development. The essential characteristics of Green Belts are their openness and their permanence. Openness can be perceived spatially and visually. In spatial terms, the proposed building would inevitably reduce the openness of the appeal site as Green Belt by occupying a space on the appeal land that is currently surfaced for vehicle parking and where there is currently not a building.
9. Visually, the appeal property and the group of properties of which it forms part, are clearly visible from the road where they are set in a wider landscape of open fields and intermittent areas of woodland. Although the proposed building would be set on land lower than the garden level of the building and partially contained by the garden's retaining walls to its side and rear, it would nonetheless be considerably taller than the retaining walls.
10. On the approach to the site from either the north or south, the proposed building would not be particularly prominent in longer distance views due to the screening effect of the building itself and of the woodland to the south. However, in closer distance views, the proposed building would be clearly visible from the road, albeit seen partly against the backdrop of trees and planting. Nonetheless, positioned well away from the building and close to the southern boundary, the scale and massing of the proposed building would evidently increase the visible extent of physical built development across the width of the site frontage. It would be considerably larger than the small Klargester unit and the gate in front of it to the south, which largely blend into the backdrop of woodland.
11. For these reasons, I find that the proposed building would result in a loss of openness in the locality of the appeal site, albeit to a relatively modest and localised extent. On this basis, and although I have had regard to the established principles and caselaw brought to my attention by the appellants, I find that the proposed building would cause a moderate degree of harm to the openness of the Green Belt.
12. As the proposed development's impact on the openness of the Green Belt would be greater than that of the existing development, it would not meet the exception in criteria g) of Paragraph 149 of the Framework, and therefore

constitutes inappropriate development in the Green Belt when considered against this criterion.

13. Paragraphs 147 and 148 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. I therefore give substantial weight to the proposal's harmful effect on the openness of the Green Belt.

Other considerations

14. I have had regard to the appellants' requirements for a garage and the stated physical constraints at the site, including the differences in land levels that are said to preclude the siting of a garage at the rear of the dwelling. However, I am mindful that the planning system is mainly concerned with the use of land in the public interest.
15. Whether or not a proposed garage building could have been built under national permitted development rights, were it not for their removal on an earlier planning permission to extend the host building, has little relevance to my considerations. There are provisions in planning legislation for seeking to remove such conditions. The Government's intentions behind the permitted development rights, particularly in respect of their interaction or otherwise with national Green Belt policy, have little relevance to my considerations.
16. The appellants raise concerns over inconsistencies in the Council's decisions on previous planning applications at the property and in the wider area, particularly in respect of how the exceptions in paragraph 149 of the Framework (and the equivalent paragraph in earlier versions) have been applied. Reference has been made to planning permissions for garages at Nos 1 and 3 Old Soar Cottages, as well as a cart barn at No 1, which was granted planning permission by the Council after it found that very special circumstances existed.
17. Full details of the planning permissions granted for the garages at Nos 1 and 3, are not before me in this appeal so I cannot be sure of the full circumstances of those cases. The circumstances in each case are likely to be different and the fact that apparently similar development has been granted permission is not a reason, on its own, to allow unacceptable development. Furthermore, whether or not the correct exceptions in the Framework for new buildings in the Green Belt were applied to previous planning applications has little relevance to my considerations in this appeal. I am not bound by the previous decisions of the Council. As such, the examples cited and the concerns raised have limited relevance to my considerations.
18. The appeal site is encompassed within the Old Soar and Allens Conservation Area (CA). I have therefore had regard to the statutory duty under Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I find that the scale, form and materials of the proposed building would preserve the character or appearance of the CA as a designated heritage asset, whose significance is derived from the distinctive groups of traditional buildings and their relationship with the surrounding rural landscape. However, preserving the character or appearance of the CA does not weigh positively in favour of the development.

19. The Council considers that the proposal would respect the existing development within the area and cause no unacceptable impacts on the character and appearance of the countryside. I have no reason to find differently, however, an absence of harm in these respects does not weigh positively in favour of the development.
20. The Parish Council has no objection to the proposal, but this does not weigh positively in favour of the proposal.
21. The proposal is supported by several interested parties in the local area, who consider it to be a positive addition to the area. However, I give limited weight to the support of these interested parties.
22. The proposed garage would be sited in a practical position relative to the vehicle access and to the side of the building, where such garage buildings are often located, including in the immediate locality. However, this has limited relevance to my considerations.

Green Belt balance

23. The proposal would harm the openness of the Green Belt and as such it would constitute inappropriate development. The Framework requires that all the harms to the Green Belt be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
24. I find that there are no other considerations in this case that clearly outweigh the harm the development would cause to the Green Belt. Therefore, the very special circumstances necessary to justify the proposed development do not exist.

Conclusion

25. For the reasons given above and having considered all other matters raised, I conclude that the appeal proposal conflicts with the Framework and Policy CP3 of the CS, and that there are no material considerations of sufficient weight to outweigh this finding. Accordingly, the decision should be made in accordance with the development plan and the appeal should be dismissed.

G Sylvester

INSPECTOR