



Appeal Decision

Site visit made on 15 May 2023

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2023

Appeal Ref: APP/L3625/D/22/3308288

Greenacre, Collendean Lane, Horley, Surrey RH6 0HP

- 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 & Mrs R Asbridge against the decision of Reigate and Banstead Borough Council.
 - The application Ref 22/01061/HHOLD, dated 5 May 2022, was refused by notice dated 5 August 2022.
 - The development proposed is a new timber framed garage with associated hard landscaping amendments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site has also been referred to as 'Green Acre'.
3. Prior to its decision, the Council considered amended plans, including to delete a proposed sliding gate at the vehicular entrance to the site. The description of development in the banner above is therefore taken from the Council's decision notice because it is more precise.

Main Issues

4. The site is in the Green Belt. The main issues in this appeal are:
 - whether the development is inappropriate development in the Green Belt, having regard to local and national planning policy and any effects on openness and the purposes of the Green Belt; and
 - whether any harm by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations to amount to very special circumstances required to justify the development.

Reasons

Planning policy

5. Policy CS3 of the Reigate & Banstead Core Strategy July 2014 (the CS) seeks to maintain the Green Belt. Amongst other things, it states that planning permission will not be granted for inappropriate development in the Green Belt unless very special circumstances clearly outweigh the potential harm to the Green Belt. Policy NHE5 of the Reigate & Banstead Development Management Plan September 2019 (the DMP) includes that extensions or alterations to buildings in the Green Belt and replacement buildings in the Green Belt will be

permitted subject to criteria. The supporting text explains that this policy aims to protect the Green Belt from inappropriate development.

6. In these respects, these policies are broadly consistent with objectives of the National Planning Policy Framework (the Framework) to protect Green Belt land and to regard the construction of a new building as inappropriate development in the Green Belt, subject to certain exceptions. Two exceptions are potentially relevant to the garage. The first is paragraph 149(c) for 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. The second is paragraph 149(d) for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
7. The hard landscaping is a hardstanding. A potential exception to inappropriate development in the Green Belt is Framework paragraph 150(b). This sets out that engineering operations are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. I have not been provided with a directly equivalent development plan policy.

Whether inappropriate development

Extension or alteration of a building

8. In the extracts before me, the Council's development plan does not define the circumstances in which an outbuilding might form part of a dwelling. The appellants have referred me to some relevant caselaw¹.
9. The existing building, Greenacre, is a detached dwelling centrally positioned towards the back of a long plot. The garage would be sited near the front of the plot. This free-standing outbuilding would be used for ancillary purposes related to the occupation of this dwelling, such as parking cars, and in use terms be a normal domestic adjunct to it.
10. However, although in the front garden the garage would stand approximately 25m to 33m in front, and to one side, of the dwelling in a distinctly different corner part of the plot, partially separated by trees and hedgerow. It would not, therefore, be very close to Greenacre and, in my view, too distant and discrete to constitute an extension (or alteration) of this building.
11. On this basis construction of the garage is not within the scope of DMP Policy HNE5(1) or Framework paragraph 149(c). Accordingly, I do not need to consider the criteria of DMP Policy HNE5(1) or whether in paragraph 149(c) the garage would be a disproportionate addition over and above the size of the original building (Greenacre).

Replacement of a building

12. There was a domestic shed roughly in the position of the proposed garage, part of which is shown in one of the appellant's photographs. However, it has been demolished. Consequently, as this building no longer exists on the site there is no physical built form to be replaced.

¹ *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin)

13. As such, construction of the garage is not within the scope of DMP Policy HNE5(2) or Framework paragraph 149(d). It has not been suggested that any other building would be replaced. Accordingly, I do not need to consider the criteria of DMP Policy HNE5(2) or whether in paragraph 149(d) the garage would be in the same use and not materially larger than the building it would have replaced (the shed).

Engineering operation

14. The intended layout and extent of proposed hardstanding is not clear from the submitted plans and appellants' other documents. Even if it was a narrow driveway connecting the garage to the existing driveway over part of the lawn, this would alter the physical nature and use of this land. This part of the site would no longer be undeveloped and 'open' in any equivalent or comparative sense to its original condition.
15. Although at ground level it would establish built form where there is none at present and have a permanent spatial presence. Though set back from the lane, consolidating development along it in this way would have a visual presence facing the lane at the vehicular entrance.
16. The hardstanding would be within the residential curtilage of Greenacre and not encroach into the open countryside, or conflict with any purpose of including land within the Green Belt. However, albeit a small loss, this limited adverse impact would not preserve the openness of the Green Belt, which is one of its essential characteristics. Accordingly, the hardstanding does not meet the exception at Framework paragraph 150(b).
17. Drawing these three strands together, the garage and hardstanding would be development in the Green Belt that is not supported by the development plan. Nor does it meet any of the exceptions in Framework paragraphs 149(c), 149(d) or 150(b). Accordingly, the development is inappropriate development.

Other considerations

18. Greenacre is the appellants' family home and they have invested in significant improvements to it. A double garage is used to maintain and securely store two historic classic cars and a third is kept under a temporary shelter. There is no evidence that other cars could not be parked on the proposed (or another new) hardstanding and, in conjunction with the existing driveway, allow safe exit onto the lane in a forward gear. The garage would be an open-fronted double car port so not provide secure car parking or secure storage for commercial tools, equipment and materials or for children's garden toys and bikes. The appellants consider this part of the plot serves no useful purpose and is unsightly from the lane, but there is no apparent reason why it could not be improved as part of the front garden. While the garage and hardstanding would enhance the appellants enjoyment of Greenacre, and is their preference, these private benefits have limited weight.
19. It is agreed that the garage could not be constructed in the front garden using Class E permitted development rights (PDR)². Given the narrow gaps either side of Greenacre it has not been demonstrated that convenient vehicular access could be achieved to the rear garden from a driveway through the front

² Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 1995 (as amended)

garden. Even if it could, the garage has a pyramid roof with dual-pitches and the height of this building would exceed 4m. Given this limitation at paragraph E1(e)(i) of Class E it would not be permitted development even in the rear garden. In these circumstances there is no realistic prospect of a fall-back in this regard.

20. No specific similar or larger building in the rear garden has been proposed and no other PDR have been referred to. Nor has such development been evidenced by a certificate of lawful proposed development. Even if this was possible, the Government has not removed PDR in the Green Belt for such appropriate development in rear gardens, which by virtue of its size or alternative siting would have a materially different impact on the Green Belt than the proposed garage. These PDR considerations therefore have limited weight.
21. Subject to relevant limitations and conditions the proposed hardstanding (or a new driveway to the rear garden) could be provided using Class F PDR. I therefore give significant weight to this consideration, albeit in the context that this hardstanding is part of a composite proposal including the garage.
22. The development would not have any adverse effect on the living conditions of the existing occupiers of nearby dwellings, the character and appearance of the area or trees. The absence of harm in these regards is a neutral factor in my decision.
23. There were no public objections to the development, which would be seen in limited public views. However, this does not mean absence of intrinsic harm to the Green Belt. At least some of the garages or other outbuildings elsewhere along the lane were constructed using PDR or granted planning permission as extensions to buildings or replacement buildings. These are not therefore directly comparable to the current appeal, which I have determined on its individual planning merits and the evidence before me.

Green Belt Balance

24. The proposed development is inappropriate development and by definition harmful to the Green Belt. The limited harm to the openness of the Green Belt in this case is at odds with local and national policy to protect the Green Belt. Any harm to the Green Belt is a matter that carries substantial weight. There is no other harm.
25. The hardstanding could be carried out irrespective of its location in the Green Belt. I acknowledge that the garage is of importance and value to the appellants' immediate and foreseeable future family life. However, there is no compelling evidence or other convincing justification that it is the only alternative to meet the needs suggested. The garage would otherwise be a permanent building in the Green Belt and harm in this respect would endure.
26. I recognise that dismissing the appeal would interfere with the appellants' private rights to enjoyment of their possessions, to family life and their home³. Nevertheless, these factors must be weighed against the wider public interest. For the reasons given above, the development would harm the Green Belt. I am satisfied that this legitimate aim can only be adequately safeguarded by the refusal of permission for the proposed development. I therefore consider

³ Article 1 of the First Protocol and Article 8(1) of the Human Rights Act 1998

that dismissing the appeal for these reasons would be a proportionate outcome.

27. The other considerations outlined above do not, therefore, individually or cumulatively clearly outweigh the harm to the Green Belt. As a result, very special circumstances to justify the development do not exist. It also, therefore, conflicts with CS Policy CS3 and Framework paragraph 148.

Planning Balance and Conclusion

28. The proposal does not accord with the development plan taken as a whole and it conflicts with the Framework. There are no other material considerations to outweigh these findings. Consequently, for the reasons given above the proposal is unacceptable and therefore the appeal does not succeed.

Robin Buchanan

INSPECTOR