



Appeal Decision

Site visit made on 24 February 2023

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2023

Appeal Ref: APP/D1265/D/22/3296562

The Gables, Verwood Road, Three Legged Cross BH21 6RW

- 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 Adam Moodie against the decision of Dorset Council.
 - The application Ref 3/21/1299/HOU, dated 25 June 2021, was refused by notice dated 18 February 2022.
 - The development proposed is garage and workshop.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to national and local policies, and the effect of the proposal on the openness of the Green Belt; and
 - whether any 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 and openness

3. National policy on Green Belt development is set out in the National Planning Policy Framework (the Framework). It sets out that new buildings in the Green Belt are inappropriate unless they fall within the closed lists of exceptions set out in paragraphs 149 and 150. These include 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 (paragraph 149c)); and the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 149d)).
4. Policy KS3 of the Christchurch and East Dorset Local Plan Part 1 Core Strategy (adopted 2014) (CS) states that development in the area will be contained by the South East Dorset Green Belt. It sets out the most important purposes of the Green Belt in the area and criteria for development on previously developed land, but does not deal specifically with domestic buildings.
5. Although not referenced in the Council's reason for refusal, both the Council and appellant refer to Policy GB3 of the East Dorset Local Plan 2002 (LP). This

policy has been saved and therefore remains part of the development plan. Framework paragraph 219 states that existing policies should not be considered out-of-date simply because they were adopted prior to the Framework, but that due weight should be given to them according to their degree of consistency with the Framework.

6. Policy GB3 sets out three criteria that must be met in order to allow extensions to, or replacements of, existing dwellings in the Green Belt. The supporting text to that policy refers to national policy advice in relation to replacement dwellings and extensions to dwellings. It also explains what should be considered when assessing whether the impact of an extension or replacement would be disproportionate in terms of the openness of the Green Belt.
7. National policy on Green Belts has changed since the LP was adopted, and now allows for wider scope for replacement and extension of buildings rather than just dwellings, and removing reference to 'limited' in relation to extensions. The key tests of whether a replacement building would be materially larger and whether extensions would be disproportionate remain, but openness is not a consideration for replacement buildings or extensions in the Framework. Consequently, I find that Policy GB3 is generally, but not wholly consistent with the Framework and I afford it significant weight.
8. The appellant states that the proposal is to demolish the existing double garage, so the appeal proposal would be a replacement building under Framework paragraph 149d). The demolition could be secured by condition, so I am satisfied this proposal can be considered as a replacement building.
9. The existing and proposed buildings would be in different parts of the site, but both would be for the same domestic use associated with the main dwelling. The proposal would be wider, deeper and taller than the existing garage, with a pitched roof. Consequently, it would have a significantly greater bulk and massing. The Council's calculation, which the appellant does not dispute, indicates that it would result in a 118% increase in volume compared to the existing garage. Overall, therefore, I find that the proposal would be materially larger than the building it would replace and would not fall within the exception in Framework paragraph 149d).
10. Matters of design quality, visual impact and potential fallback alternatives are not relevant to the consideration of whether the replacement building would be materially larger, which is essentially a comparison between the existing and proposed buildings. However, I will return to those issues below.
11. It is possible for a development to potentially fall within more than one of the Framework Green Belt exceptions, so it is reasonable to consider the proposal against paragraph 149c). The Framework does not define circumstances in which domestic outbuildings can be considered as extensions to a dwelling, nor is it explicit in any local policy before me. However, Policy GB3 allows for extensions to dwellings in the Green Belt and refers in criterion (c) to 'any garage building'. I have not been directed to anything in the policy or supporting text that specifies that these must be attached to the dwelling for the policy to apply.
12. The courts have held that paragraph 149c) is not to be interpreted as being confined to physically attached structures, and that an extension for the purposes of that provision can include structures which are physically detached

from the building of which they are an extension. Whether a detached structure would amount to an extension of the existing building is a matter of fact and degree.

13. Double garages and small domestic workshop areas are commonly found associated with a dwelling and can therefore reasonably be considered as a normal domestic adjunct. The proposal would be used and occupied together with the dwelling, and although a standalone building it would be sited very close to the main dwelling and would be subordinate to it in size. Consequently, this proposal is capable of being considered as an extension to the existing dwelling.
14. The Framework requires consideration of extensions relative to the size of the original building, which is defined as being as it existed on 1 July 1948. The supporting text to Policy GB3 refers to comparison with the floor area of the dwelling on the date the Green Belt was designated, 5 February 1980. The existing garage might predate the Green Belt designation, having been granted permission in 1978, but nonetheless it is not disputed that the house was extended following permission granted in 1993. The appellant states that a further ground-floor extension was added in 2021 as permitted development.
15. The supporting text to Policy GB3 mentions a 50% floor area increase or 140sqm floor area, however it clearly states this should only be used as a general guideline, therefore this does not define what is disproportionate. The Council's figures, which the appellant does not dispute, indicate that existing extensions equate to approximately 85sqm of additional floorspace, or a 79% increase in comparison with the original dwelling. With the proposal this would be a cumulative 111% increase in the floor area above the size of the original dwelling.
16. These figures do not appear to include the 2021 extension however, so the cumulative additions would be even greater. Demolition of the existing garage would partially offset this, however even so, the proposal would still result in the dwelling having a significantly larger floorspace, volume and overall size than as it stood in either 1948 or 1980.
17. Turning to the policy criteria, the proposal would add built development into the currently undeveloped frontage of the site, reducing Green Belt openness in spatial terms. Fences and vegetation would provide some screening, but some of the roof would be visible from the road when directly outside the site, reducing openness in visual terms.
18. This loss of openness would be offset to some extent by the demolition of the existing garage, which would also reduce the spread of development across the site. However, that building is smaller than the proposal, with a low, flat roof. It is also set in from the side boundary of the site and the boundary fence and vegetation largely screen it from public view. The proposal would be more visible from public viewpoints, and therefore would have more impact on the openness of the Green Belt than the existing garage, both spatially and visually.
19. The greater height and bulk of the proposed building and its more visible position mean that even with the existing garage removed, the proposal would have a materially greater impact on the openness of the Green Belt than the existing dwelling and associated outbuilding. The overall reduction in openness

would be very limited, however the proposal would not comply with criterion (a) of LP Policy GB3.

20. The size and scale of the proposed building would be commensurate with the main dwelling and would not dominate it, while the roof height and pitch would make the roof space unsuitable for later conversion to residential use. Criteria (b) and (c) of Policy GB3 would therefore be met. To be allowed under that policy however, all three criteria must be satisfied.
21. The proposal would not therefore comply with LP Policy GB3 overall and, for the above reasons, I find that its size and scale would result in disproportionate additions over and above the size of the original building, even when demolition of the existing garage is factored in.
22. The proposal would not therefore fall within Framework paragraph 149c) or any other exception, and would be inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Whether very special circumstances exist

23. There is a similarly sized garage at the front of Holly Hedge nearby, which the appellant advises was granted permission in 2021. The Council has not commented on that scheme in its report for this proposal. I have been provided with a drawing of that scheme and saw the building during my visit, however I do not have any details of how it came to be permitted, such as an officer report. I do not know, therefore, whether it was found to be inappropriate development or whether very special circumstances justified granting permission.
24. Accordingly, there is no substantive evidence before me that the circumstances which led to the garage at Holly Hedges being granted permission are comparable with the appeal scheme. The presence of that garage and other outbuildings in the area mean that the proposal would not appear out of place in this street scene, however they do not set a precedent for the appeal proposal in terms of Green Belt policy.
25. The form and materials of the proposal would complement the existing dwelling and the character of the area. However, good design is expected from any new development. The existing garage is of some age and not particularly attractive but is well screened from public view. It therefore has limited visual impact other than from the rear of the dwelling, where it is unsightly for the occupiers. Given its limited public impact, removal of the existing garage and replacement with a more sympathetic design would only result in a limited benefit to the character and appearance of the area, and I afford this matter limited weight.
26. Use of the existing garage would involve driving over the lawn, therefore it is inconveniently located for car parking. There is however ample space to park in front of the dwelling. The proposal may be no larger than functionally required by the appellant, however the desire to have a secure garage and workshop for storage and pursuit of hobbies are private benefits for the appellant. It has not been demonstrated that this proposal is the only means by which this can be achieved without compromising garden space or aesthetics. These matters therefore carry very limited weight.

27. The appellant may be able to build an outbuilding at the rear of the dwelling with a significantly larger footprint than proposed and a height of up to 4m. However, given their comments about the inconvenience and visibility of the existing rear garage, I consider it unlikely that they would want to construct a larger outbuilding at the rear. Nevertheless, the courts have held that there only needs to be a 'more than theoretical possibility' that a fallback position would be exercised.
28. No drawings have been provided of what could be built under permitted development. The rear garden is well screened from view by the house, existing extensions and surrounding vegetation. Consequently, it has not been demonstrated that any permitted development fallback position would result in greater harm to openness than the appeal proposal.
29. The appellant suggests that I could allow the appeal with a condition removing permitted development rights for outbuildings. That condition would not take effect until the permission were implemented however, so permitted development rights would exist up until that point. It would therefore be possible for a large outbuilding to be constructed, and then the appeal proposal, which could result in greater cumulative harm to Green Belt openness than the proposal itself. Therefore, such a condition would not satisfactorily mitigate the harm to openness and the fallback position carries very limited weight.
30. The proposal would allow vehicles to enter and exit the site safely, however this is already true of the existing layout, so there would be no additional benefit in this respect. There would be no significant effect on neighbours or biodiversity. These are neutral impacts however, and do not weigh in favour of the scheme.
31. The proposal would result in harm to the Green Belt by reason of inappropriate development, a matter which I afford substantial weight, having regard to the Framework. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

32. The proposal would not comply with LP Policy GB3 or the Green Belt policies of the Framework. There are no material considerations, including the benefits of the scheme, that justify granting planning permission contrary to the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR