
Appeal Decision

Site visit made on 16 August 2023

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2023

Appeal Ref: APP/D1265/D/22/3312872

73 Horse Pond Lane, East Morden, Dorset BH20 7DP

- 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 Keith Webb against the decision of Dorset Council.
 - The application Ref P/HOU/2022/04908, dated 9 August 2022, was refused by notice dated 10 November 2022.
 - The development proposed is a timber frame garage.
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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 the Framework and any relevant development plan policies.
 - If so, 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

3. Paragraph 149 of the National Planning Policy Framework (the Framework) confirms that the construction of new buildings in the Green Belt constitutes inappropriate development, save for specified exceptions. The Council contends that the proposed garage would not fall within any of the exceptions, including sub-paragraph 149c) which allows 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.
4. The Council indicate in their Householder Application Report that owing to the garage being a new building, free standing from the dwelling at 73 Horse Pond Lane it is not an extension to an existing building. No specific Green Belt policy in the development plan has been drawn to my attention. As such, I am unaware of any explicit reference to proposed ancillary outbuildings within the

curtilage of a dwelling in these circumstances. The latter is also true of the Framework.

5. Nevertheless, it was held in *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)* that paragraph 149c) of the Framework is not to be interpreted as being confined to physically attached structures but 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. It follows, that the proposal ought not to be discounted from the scope of the exception in paragraph 149c) solely on the basis that it is not linked to the main dwelling or other building. Rather, whether the proposal would amount to an extension of the dwelling in this case is a matter of fact and degree.
6. The evidence before me points to the proposed garage serving the detached bungalow at 73 Horse Pond Lane. It is of a reasonable domestic scale and appearance such that it would appear subordinate to the main dwelling. Its position adjacent to the residential driveway and openings would mean the building would lend itself to the storage of cars, bicycles and other domestic accoutrements. Furthermore, the approximately 7.5 metre gap would mean the garage would be near the dwelling. It would also be physically linked by a short section of fencing. Accordingly, the proposed structure would be a normal domestic adjunct.
7. Overall, I find that the proposal would constitute an extension to the existing dwelling for the purposes of paragraph 149c) of the Framework. Therefore, an assessment is required as to whether the proposal would result in disproportionate additions over and above the size of the original building, which in this case is the main house. The Framework defines original building as a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.
8. Neither the Framework nor development plan specify what is meant by disproportionate addition, and therefore this requires an exercise of judgement. Nevertheless, national green belt policy refers to the original building as the benchmark against which the assessment of proportionality must be made. It follows that this requires a cumulative assessment of size, taking previous relevant extensions into account. As such, the proposed garage should not be considered in isolation.
9. The planning history¹ provided by the Council combined with my observations lead me to find that the property was originally a modest simple detached rectangular bungalow that has had several extensions made to it including to the front, rear and side. The Council state that the floor area of the originally approved dwelling measured about 85m², whereas the footprint of the dwelling presently measures about 205m² following the construction of the extensions, and there is no evidence before me to show otherwise. A pitched roof has also been added to the previous flat roofed garage to the side. As such, notwithstanding the generous grounds of the property, the volume, footprint and overall size of the dwelling is already considerably larger in size than the original building.

¹ Planning references 6/1975/0198, 6/2014/0667, 6/2015/0157, 6/2018/0406 and NMA 6/2018/0406, email dated 25.5.23

10. The proposed detached garage would introduce a further 30m² of floor space and attain approximately 3.7m in height. Furthermore, its position would be apart from the body of the main dwelling and set closer to the access. As a result, additional built form would be more obviously distributed across the grounds.
11. Consequently, I find that the proposal would cumulatively result in an increase in size disproportionate to the original modest bungalow building. There is nothing before me to show that the proposal would fall within any of the other exceptions permitted by paragraph 149 of the Framework. Therefore, it would amount to inappropriate development in the Green Belt.

Openness

12. 73 Horse Pond Lane is within a semi-rural setting whereby built form is generally clustered, with otherwise largely rural and open surroundings. The proposed garage would cumulatively add to the amount of built form at the appeal site and therefore, would have an adverse spatial impact on the openness of the Green Belt. This would be exacerbated by the further distribution of buildings across the domestic grounds. Although the boundary hedgerow would partially shield the building, its position close to the access means the structure would be discernible from Horse Pond Lane. This is reinforced by the appellant's photograph 1².
13. As such, the proposal would have an adverse spatial and visual impact upon the openness of the Green Belt. However, cognisant of its domestic scale, this would result in limited harm to the openness of the Green Belt.

Other considerations

14. The appellant highlights that no objections have been raised by neighbours. Furthermore, the Council did not raise concerns in relation to the design of the building nor the impact on the Morden Conservation Area (CA). The significance of the CA derives largely from the historic dispersed settlement pattern and presence of traditional vernacular buildings. The appeal property is a 20th century dwelling that has been altered over time. It possesses little of heritage interest in terms of architecture, but the layout conforms to the dispersed settlement pattern. I am satisfied that the relatively minor scale and appearance of the proposed garage within the existing domestic grounds would preserve the character and appearance of the CA in respect of the important components that contribute towards its significance. Nevertheless, the lack of harm in these respects would not address nor cancel out the requirements of national Green Belt policy. Therefore, they are neutral factors in the overall balance.
15. My attention is drawn to other planning applications in Horse Pond Lane³. Unlike the appeal scheme, one refers to the conversion of existing buildings. Ostensibly, this could fall within other exceptions made for development in the Green Belt for the reuse of existing buildings. The other refers to the use of a caravan, which would also concern the use of land rather than new buildings. Based on the limited information provided, it is not shown that either are directly comparable to the appeal proposal, and therefore, they attract little weight.

² Appendix 2, Appellant's Grounds of Appeal

³ Planning references P/FUL/2022/02792 & P/CLE/2022/03165.

Other matters

16. The appellant contends that the Council did not act in a positive or proactive manner and cites both difficulties in communicating with the Council and the deterrent cost of pre-application advice. However, these are matters which lie outside the scope of my determination, which I have made on the planning merits of the proposal.

Green Belt balancing exercise and conclusion

17. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Moreover, very special circumstances justifying inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. In this case, the proposal amounts to inappropriate development, and limited harm would be caused to the openness of the Green Belt. These factors attract substantial weight.
18. Accordingly, I find that the other considerations in this case do not clearly outweigh the harm identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would amount to inappropriate development in the Green Belt and would harm openness contrary to national Green Belt policy.
19. Planning law requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise⁴. The development plan does not contain policies that specifically refer to development in the Green Belt and no conflict with development plan policies has been specified in the refusal reason on the Council's decision notice.
20. Policy SD of the Purbeck Local Plan, Part 1, November 2012 sets out a presumption in favour of sustainable development that broadly accords with paragraph 11 of the Framework. Policy SD states that where there are no relevant policies the permission will be granted unless material considerations indicate otherwise, taking into account, amongst other things, specific policies in the Framework that indicate development should be restricted.
21. I have found that the Green Belt policies in the Framework provide a clear reason for refusing the development proposed, and therefore the presumption in favour within policy SD does not apply. Moreover, the conflict with national Green Belt policy is a material consideration of such import in this case that it indicates the proposal should be resisted. Therefore, I conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR

⁴ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70 (2) of the Town and Country Planning Act 1990.