



Appeal Decision

Site visit made on 11 July 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2023

Appeal Ref: APP/H2265/D/22/3303924

Little Egypt, Park Road, Hadlow, Tonbridge TN11 9SR

- 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 Nigel Taylorson against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/03364/FL, dated 23 December 2021, was refused by notice dated 12 May 2022.
 - The development proposed is for the existing dilapidated garage and shed to be demolished and replaced with a single-storey, oak framed annexe.
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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 National Planning Policy Framework 2021 (the Framework) and any relevant development plan policies.
 - The effect of the proposal on the openness of the Green Belt.
 - Whether the proposal would preserve or enhance the character or appearance of the Oxenhoath and Hamptons Conservation Area (CA) and whether it would preserve the setting of Little Egypt, a grade II listed building.
 - 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 it.

Reasons

Whether inappropriate development

3. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy (Adopted September 2007) (CS), states that national Green Belt policy will be applied generally to the area west of the A228, which includes 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. One of the exceptions, set out in Paragraph 149.d) of the Framework, is the

replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

5. Neither the Framework nor the Council's planning policies to which I have been referred, provide a floor space or volumetric percentage figure to quantify what might constitute a 'materially larger' replacement building. As such, it is a matter of applying planning judgement to the circumstances of the appeal before me.
6. The existing garage building has become partially overgrown by vegetation. The small timber shed that stands to its rear is in a very poor condition and in a partially collapsed state. Based on the drawings before me and the dimensions provided by the appellant, the proposed building would have a larger footprint than the existing buildings combined, and it would be markedly higher with a pitched hipped roof form.
7. It follows that when compared to the existing buildings the proposed building would be materially larger in terms of both its size and scale. Therefore, even if I were to accept that the proposed outbuilding was ancillary to the main dwelling and therefore in the same use as it, the proposed replacement building would conflict with paragraph 149.d) of the Framework.
8. I acknowledge that the pitched roof form of the proposed building seeks to respond to the Council's reasons for refusing a previous planning application for an outbuilding. However, I have considered this proposal on its individual merits and on the evidence before me.
9. Another exception to the construction of new buildings in the Green Belt 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. Based on the evidence before me, the proposed outbuilding would be located a considerable distance from the existing dwelling. The extent of separation between the proposed outbuilding and the existing dwelling, with an open garden in-between, would lead me to conclude that the proposed building could not be considered as an extension to a dwelling. Therefore, it would not comply with the exception in Paragraph 149.c) of the Framework.
10. The proposal would therefore constitute inappropriate development in the Green Belt for the purposes of the Framework and Policy CP3 of the CS. 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.

Effect on openness

11. The essential characteristics of Green Belts are their openness and their permanence. Openness can be perceived spatially and visually. The proposed replacement building would be sited in a similar part of the site as the existing buildings. However, it would be materially larger than those existing buildings, resulting in an increase in built form. In spatial terms, it would partly occupy space that is undeveloped, reducing the openness of the site.
12. The proposed building would not be particularly prominent in longer distance views due to the screening effect of the hedgerow along the road frontage. It would also be seen within the context of the existing dwelling and partly

against the backdrop of surrounding trees and planting. Additional planting is proposed. Nonetheless, the built form of the proposed building would be clearly visible from the road in closer distance views and when compared to the existing buildings, its larger scale would result in a reduction in the visual openness of the site, albeit to a relatively localised extent.

13. On this basis, and although I have had regard to the established principles and caselaw brought to my attention by the appellant, I find that the proposed building would cause a modest degree of harm to the openness of the Green Belt.
14. As I have set out above, 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. 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.

Conservation Area and Listed Building

15. The CA encompasses the appeal site and a dispersed, scattered pattern of mostly traditional buildings. These are often set within spacious plots and amongst a landscape of irregular shaped fields and dense planting, including blocks of woodland and roadside hedgerows. As such, there is a relative absence of buildings within the CA. The buildings that are present are embedded within the surrounding rural landscape.
16. Several vernacular buildings, including a former Oast House adjacent to the appeal site, are set close to the network of narrow rural roads. A small number of larger and grander buildings are set well back from the roads in substantial grounds and are largely concealed by planting. The significance of the CA is therefore derived from the collection of attractive vernacular and traditional buildings that are set within a verdant rural landscape.
17. My statutory duty under s72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act), is to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
18. Little Egypt is a grade II listed building. I am required by s66(1) of the Act, to pay special attention, and have regard to, the desirability of preserving the setting of listed buildings. The building is a red brick two storey building with a steeply pitched plain tile covered half hipped roof, with smaller dormers, and a broadly central chimney stack. Its significance seems to derive from its sixteenth century origins and architectural qualities, being an example of a Kentish vernacular rural cottage, and from the sense of spaciousness within the plot, especially due to its large garden.
19. Paragraph 199 of the Framework states that when considering the impact of a proposal on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
20. As set out above, the proposed building would be materially larger than the existing buildings that it would replace. However, the proposed building would be of a subservient scale to the host dwelling. Sited in broadly the same part of the site as the existing buildings, it would maintain the sense of space around

the host listed building and within the wider area. The traditional design and materials of the building, including the modest entrance porch, would be broadly in-keeping with the character of the garden setting of the host property. It would reflect the local vernacular of the closest buildings, including another timber framed outbuilding nearby. The frontage hedgerow would provide partial screening and softening of the building in views from the road to the extent that the proposed building would not appear prominent or intrusive.

21. Despite its materially larger scale, the siting and appearance of the proposed building would preserve the verdant rural character and appearance of the area. However, the modestly sized existing buildings, which are examples of domestic outbuildings of simple forms and materials, do not noticeably detract from the character and appearance of the CA. In this context, the proposed development would not amount to an enhancement of the character or appearance of the CA, or to the setting of the listed building.
22. For these reasons the proposal would preserve the character and appearance of the CA, and it would preserve the setting of the listed building. As such, the appeal proposal is consistent with Policy CP24 of the CS, and Policy SQ1 of the Managing Development and the Environment Development Plan Document – Part of the Local Development Framework for Tonbridge and Malling (Adopted April 2010), which require, amongst others, that development protects, conserves and where possible enhances the character and local distinctiveness of the area, including its historical and architectural interest, and the relationship between the pattern of settlement and the landscape.

Other considerations

23. I have had regard to the appellant's requirements for the proposed development and how it would enhance accommodation at the property, provide accessibility for wheelchair users and contribute to reducing the need to travel. I note the appellant's contention that the proposed building is the minimum size to meet the needs of guests. However, the personal circumstances of the appellant and their family and friends, have limited weight in its favour. The harm identified would likely persist long after any personal circumstances cease.
24. The proposed building would be constructed from materials including reclaimed roof tiles and oak sourced from certified sources and well managed sustainable and renewable forests. It would be built using traditional carpentry methods that are less reliant on modern power tools. The building could be relatively easily dismantled and the materials reused. However, given the scale and likely permanence of the proposed building, I give limited weight to the environmental benefits of these factors combined.
25. In the context of the rural and verdant character and appearance of the appeal site, the benefits of some additional new trees and planting at the appeal site are of limited weight in its favour.
26. Preserving the character or appearance of the CA, and preserving the setting of the listed building do not weigh in favour or against the development.
27. The absence of harm to the living conditions of the occupiers of nearby properties and to the health and well-being of existing trees does not weigh in favour or against the proposal.

28. Reference has been made to other outbuildings in the locality, including an oak framed garage at the property known as 'The Artichoke'. I have limited information regarding those buildings so I cannot be sure of the full planning circumstances of those cases. Furthermore, the characteristics of each site are different and the circumstances that applied to other cases may not be directly comparable to those before me. As such, the examples cited are of limited relevance to my considerations in this appeal.
29. The appeal proposal would not necessitate alterations to the vehicular access or parking arrangements to the host property. However, this would not weigh in favour or against the proposal.
30. Neither the Parish Council nor nearby residents have any objection to the proposal, but this does not weigh positively in favour of the proposal.

Green Belt balance

31. 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.
32. 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

33. 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. Although it may comply with other policies, this results in conflict with the development plan as a whole. There are no material considerations of sufficient weight to outweigh this finding. Therefore, the appeal should be dismissed.

G Sylvester

INSPECTOR