



Appeal Decision

Site visit made on 19 September 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2023

Appeal Ref: APP/N0410/W/23/3317892

52 Middle Road, Denham, Buckinghamshire UB9 5EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Zaman against Buckinghamshire Council.
- The application Ref PL/22/4367/FA, is dated 20 December 2022.
- The development proposed is erection of a detached garage located 7.4m away from dwelling house.

Decision

1. The appeal is dismissed and planning permission for erection of a detached garage located 7.4m away from dwelling house is refused.

Applications for costs

2. An application for costs was made by Mr Zaman against the decision of Buckinghamshire Council. This application is the subject of a separate decision.

Main Issues

3. The Council have confirmed that if they had been in a position to determine the proposal then they would have recommended refusal of the application and set out putative reasons for refusal within their appeal statement. In light of which, the main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area; 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 in the Green Belt

4. The site is a detached bungalow with a large front garden situated within the Green Belt. Saved Policy GB1 of the South Bucks District Local Plan 1999 (LP) generally restricts development in the Green Belt, permitting certain exceptional forms of development where it would not adversely affect the character of the Green Belt and where the development would harmonise with

the original building. In addition, saved LP Policy GB3 enables limited infilling within Green Belt settlements where it would not detract from the Green Belt's open character, and saved LP Policy GB10 supports ancillary buildings and extensions where the development would be small in scale in relation to the size of the original dwelling and residential curtilage.

5. The Framework indicates policies should be afforded due weight having regard to the degree of consistency with it. At paragraph 137 the Framework describes the essential characteristics of Green Belt being its openness and permanence and states the fundamental aim of Green Belt policy is to keep land permanently open and, at paragraph 149, regards the construction of new buildings within the Green Belt as inappropriate. However, paragraphs 149 and 150 of the Framework set out certain exceptions that are not inappropriate development within the Green Belt.
6. The LP pre-dates the Framework's publication and, whilst it applies strong restraint upon development, its criteria for proposals in the Green Belt are not wholly consistent with the Framework thus reducing the weight which can be afforded to relevant policies. The provisions of the Framework therefore carry significant weight in my decision.
7. The appeal site is within an established residential area at the village of Higher Denham. The appeal property is within a row of dwellings comprised of plots regular in shape and size which front onto Middle Road. The supporting text of LP Policy GB3 defines infill as the filling of small gaps within the settlement and would normally involve development in a gap in a continuously built-up frontage. The proposed garage would be constructed at the front of the appeal property and therefore would not reflect the grain or pattern of development within the area. Through its siting within the front garden, the proposal would not infill a clearly defined gap in development but would interrupt the dwelling's open frontage. The proposal would not therefore constitute limited infilling in a village and therefore would not fall within the exception provided by paragraph 149 e) of the Framework.
8. The Framework's definition of previously developed land excludes land in built-up areas such as residential gardens, and therefore the proposed garage would not be sited on previously developed land. The proposal would not therefore accord with paragraph 149 g) of the Framework which allows for the limited infilling of previously developed land.
9. At paragraph 149 c), the Framework supports 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. Neither the Framework nor development plan provide a specific test for determining whether an extension or alteration is disproportionate and therefore whether the proposal would result in disproportionate additions is a matter of planning judgement.
10. The appellant contends that the proposal should not be treated as an extension as it would be sited more than 5m from the appeal property. Even if I were to consider the proposal as an extension, when taken cumulatively with historic extensions, the proposed development would result in an approximate increase of 109% in floorspace over and above the original dwelling and would include significant additional built volume. If treated as an extension, I consider the proposal would amount to disproportionate additions over and above the size of

the original building, and therefore the proposal would not satisfy the provisions of paragraph 149 c).

11. The appellant indicates that a detached garage was granted planning permission close to the appeal site at 58 Middle Road¹. The scheme appears to comprise a modest scale, standalone structure within the front of the site and did not involve any extensive works to level or remodel the front garden. The delegated report for that scheme recognises that the Framework allows for limited infilling in villages. However, the assessment concludes that due to proposal's small scale in relation to the existing dwelling and curtilage it would comply with saved LP Policy GB10. As set out above, I have found Policy GB10 is not wholly consistent with the Framework. The scheme, and the policy context within which it was determined, are therefore materially different from the appeal proposal. In any event, I am not bound by other decisions of the Council.
12. The appellant also refers to an appeal decision in which a proposal for an extension would constitute limited infilling². However, whilst I have not been provided with detailed plans, the Inspector concludes that the staggered siting of the side extension relative to the host dwelling and neighbouring dwelling would appear as an infill development. The degree of setback is not the same as that of the appeal proposal and therefore there are significant differences between the schemes. I therefore give these other cited cases minimal weight.
13. Paragraph 150 of the Framework permits engineering operations where it preserves openness and does not conflict with the purposes of including land within the Green Belt. The appellant contends that changes to the landform of the site would constitute such an engineering operation, and such works are not intrinsically linked to the construction of the garage. However, to accommodate and provide access to the proposed undercroft garage would necessitate such changes to the landform, and therefore I have considered the effects of the proposal as a whole.
14. Consequently, the proposal would not fall within any of the exceptions listed at paragraphs 149 or 150 of the Framework. The proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

Green Belt openness

15. The appellant cites an appeal decision in which the Inspector did not consider the effects of the proposal on Green Belt openness on the basis that the scheme was not inappropriate development in the Green Belt³. However, as set out above, I have found the proposal would comprise inappropriate development and consideration of the scheme's effect on Green Belt openness is therefore relevant.
16. Openness has both spatial and visual elements. The proposal would contribute additional built volume to the site and therefore would result in a physical loss of openness commensurate with the scale of the proposed garage. The proposed development would be visible from the street and therefore would have a harmful visual impact upon Green Belt openness.

¹ LPA Ref: 15/00993/FUL

² Appeal ref: APP/P1940/D/21/3267766

³ Appeal ref: APP/A1910/W/17/3185846

Character and appearance

17. The area is characterised by detached dwellings situated in spacious plots, which follow a consistent building line, set back from the street by deep front gardens. The area has a steep, sloping gradient with dwellings on the north side of Middle Road elevated above street level. The large, sloping front gardens contribute a green, soft landscaped character to the street scene.
18. The appeal site's front garden comprises a paved driveway with areas of lawn and a patio situated on a stepped terrace. The proposal would significantly alter the gradient of the garden, resulting in the driveway sloping downward to the garage. The proposal would therefore appear out of keeping with the natural landform and character of surrounding plots.
19. Whilst finished in matching materials, the proposed garage would be in front of the appeal property and therefore would not follow the established building line along the row of dwellings. The proposed garage would be sited below the floor level of the appeal property. However, as illustrated on the proposed front elevation plan, the garage would be clearly visible at street level. Rather than being perceived as a subterranean development, the proposed garage would therefore have the appearance of an additional storey to the dwelling.
20. The proposed garage would accommodate two vehicles side by side and therefore would be relatively large in scale, significantly increasing built form across the front garden. The garage would therefore appear dominant within the site's frontage and would not appear subordinate, thus detracting from the appearance of the dwelling.
21. For these reasons, the proposal would harm the character and appearance of the area. The proposal would conflict with LP Policies EP3 and H11 which require development proposals to be of a design compatible with the character of the site, adjoining development and locality. In addition, the proposal would conflict with Policy DEN3 of the Denham Neighbourhood Plan 2021 which requires proposals to follow design features essential to the rural village character, specified by the guidelines within the Townscape Character Study, including preserving the dominance of dwellings and consistency of building lines.
22. In addition, the proposal would not accord with the guidance contained in Section 6 of the South Bucks District Residential Design Guide 2008 which requires ancillary buildings to not over-dominate the plot, and that detached garages remain subservient to the dwellinghouse and not appear prominent in the street scene. The proposal would not therefore satisfy paragraphs 130 and 134 of the Framework which require development proposals be sympathetic to local character, including the surrounding built environment and landscape setting, and be designed to reflect local policies, design guidance and supplementary planning documents.

Other considerations

23. The proposed development would provide a garage to accommodate cars that currently park on the open driveway. Therefore, the proposal would be of private benefit to the occupants of the appeal property.

Whether there would be Very Special Circumstances

24. As set out above, the development constitutes inappropriate development in the Green Belt and would harm openness. Paragraphs 147 and 148 of the Framework require that substantial weight be given to any harm to the Green Belt and that inappropriate development should not be approved except in very special circumstances.
25. Paragraph 148 of the Framework indicates that very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
26. The appellant does not seek to demonstrate very special circumstances. However, as set out above, the proposal would provide a private benefit to the appeal property's occupants. Such other considerations would not clearly outweigh the substantial harm to Green Belt openness and significant harm to character and appearance that I have identified.
27. Consequently, the harm to the Green Belt and other harms, are not clearly outweighed by other considerations and therefore the very special circumstances necessary to justify the proposal do not exist. The proposal would therefore conflict with LP Policies GB1, GB3 and GB10 which together seek to preserve the open, undeveloped character of the Green Belt.

Conclusion

28. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations including the provisions of the Framework, I conclude that the appeal should be dismissed and planning permission be refused.

E Dade

INSPECTOR