



Appeal Decision

Site visit made on 5 September 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2023

Appeal Ref: APP/P1940/D/23/3319397

Hunterswood House, Penmans Green, Sarratt, Hertfordshire WD4 9AY

- 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 Guy & Sarah Weldon against the decision of Three Rivers District Council.
 - The application Ref 22/2095/FUL, dated 11 November 2022, was refused by notice dated 25 January 2023.
 - The development proposed is construction of an outbuilding for use as a home gym.
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Decision

1. The appeal is allowed and planning permission is granted for construction of an outbuilding for use as a home gym at Hunterswood House Penmans Green, Sarratt, Hertfordshire WD4 9AY in accordance with the terms of the application, Ref 22/2095/FUL, dated 11 November 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plans, Block Plan as Existing, 2107/3 –Block Plan as Proposed, 2107/1 – Proposed Plans/Elevations.
 - 3) No development above ground level shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Preliminary Matter

2. The appeal is accompanied by a Unilateral Undertaking ('UU') made under Section 106 of the Town and Country Planning Act 1990. I will return to this later in my decision.

Main Issues

3. The main issues are:
 - the effect of the development on the openness of the Green Belt, and;
 - 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 the proposals.

Background Information

4. Having regard to Paragraph 149 of the National Planning Policy Framework ('the Framework'), both parties agree that the proposed development would amount to inappropriate development. Based upon the information before me, I have no reason to reach a different conclusion.
5. I have therefore considered this appeal in the context of Paragraph 147 of the Framework which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstance; and Paragraph 148 of the Framework which states that very special circumstances 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.
6. Three Rivers District Council Development Management Policies Local Development Documents (DMP) Policy CP11 states that there will a general presumption against inappropriate development that would not preserve the openness of the Green Belt, or would conflict with the purposes of including land within it. DMP Policy DM2 states that the construction of new buildings in the Green Belt is inappropriate with certain exceptions. Although there are some differences between the wording of these policies and the Framework, they are broadly consistent with it.

Reasons

Openness

7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Openness has both a spatial and a visual aspect and can relate to the absence of development in spatial terms. It therefore follows that openness can be harmed even when development is not readily visible from the public realm.
8. The appeal property, Hunterswood House is a detached property of substantial size and set within extensive grounds, and the proposed development relates to the construction of an outbuilding within these grounds.
9. The evidence indicates that planning permission has previously been refused, and an appeal (APP/P1940/D/21/3278532) subsequently dismissed for a building of identical scale and design, located in the same position as the proposal before me now.
10. I am aware that the previous Inspector considered that the proposal would be set-back from the highway and would be heavily screened by trees and hedgerows. They also considered that the proposed outbuilding would not be of significant bulk in its context and would be lower in height than an adjacent garage, and positioned close to it. As a result, they found that the proposal would have only a limited impact on the visual openness of the Green Belt.
11. That Inspector went onto conclude that green space would continue to exist around the proposal, but it would be located within an area of currently open and undeveloped space, and by virtue of its volume, the building would reduce the spatial openness of the site, leading to a limited and localised loss of openness overall.
12. Given the similarities between the proposals and having regard to the evidence before me, I have no reason to disagree with these findings.
13. I therefore conclude that scheme would lead to a loss openness to the Green Belt and would impact on the purposes of including the land within the Green

Belt. It would therefore conflict with DMP Policy DM2(d)(i), as well as CS Policy CP11. Together, and amongst other factors, these policies state that there is a presumption against inappropriate development, including ancillary buildings, which would not preserve the openness of the Green Belt

Other Considerations

14. A Lawful Development Certificate ('LDC') (Ref 21/1715/CLPD) has been granted for another detached outbuilding to be sited to the south-west of the appeal property, and the appellant contends that this represents a fallback position. This had not been implemented at the time of my site visit.
15. Although it would be located in a different location to the proposal and further from the appeal property, the claimed fallback scheme would not be a complex development and I have not been directed to any barriers to its implementation. Furthermore, although the appellant has pursued a variety of avenues in order to provide an outbuilding at the property, this should not be inferred as being a firm indication of intention, nor should the continued efforts to secure permission for the proposal before me.
16. Whilst it appears that there is a strong preference for the appeal scheme and it is not explicitly stated that the fallback scheme would be implemented should the appeal fail, this option would remain to the appellant and would be implementable with relative simplicity, particularly as an LDC has already been granted. Given the nature of the proposal and the evidence before me, I am satisfied that there would be a greater than theoretical possibility that this would occur.
17. However, the appellants have indicated that they would be willing to forego the fallback position scheme, should the appeal be allowed, along with relinquishing permitted development rights for the erection of buildings within the curtilage of the appeal property. A signed and dated UU has been provided which would secure this commitment. I am therefore satisfied that this would prevent the implementation of the fallback position in addition the appeal scheme should the appeal succeed.
18. In comparison to the fallback proposal, the appeal proposal is of a higher standard of design and better related to the appeal property and other outbuildings. The appellants' provided figures, which have not been disputed, also indicate that it would be a smaller building than the fallback scheme. Accordingly, I find that the appeal proposal would result in a lesser effect on the openness of the Green Belt, than the fallback position. I therefore afford this factor significant weight as a consideration.

Planning Balance

19. The proposal would be inappropriate development in the Green Belt and would also harm the openness of the Green Belt. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt, that substantial weight should be given to that harm, and that such development should not be approved except in very special circumstances. Very special circumstance will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
20. However, I afford significant weight to the potential fallback position which may be implemented. This would have a greater effect upon openness and would be of an inferior design in comparison to the appeal proposal. I am satisfied that a

mechanism exists which would prevent the concurrent implementation of both schemes.

21. I find that this other consideration is of sufficient weight to clearly outweigh the harm to the Green Belt by way of inappropriateness and loss of openness. Accordingly, very special circumstances exist to justify inappropriate development in the Green Belt.
22. The proposal would conflict with the development plan, however, there are material considerations in this case which justify a decision other than in accordance with it.

Conditions and Planning Obligation

23. I have considered the provided UU in the context of Paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Levy ('CIL') Regulations. I am satisfied that it is necessary in order to make the proposal acceptable in planning terms, and as it would prevent concurrent development being implemented, is directly related to the development. The scope of the Unilateral Undertaking is limited to achieving this purpose, and is therefore fairly and reasonably related to the proposal. On this basis, I am satisfied that the UU would meet the requirements of the Framework and CIL regulations, and I have afforded it significant weight in reaching my decision.
24. I have had regard to the various planning conditions that have been suggested by the Council. Where necessary, I have amended the conditions in order to ensure that they meet the relevant tests as set out at Paragraph 56 of the Framework.
25. In addition to the standard time limit condition, I have attached a condition requiring adherence with the approved plans, and requiring the agreement of details of the materials of the proposed building in the interests of clarity, and securing a satisfactory form of development in the interests of the character and appearance of the area.
26. I have not attached the Council's suggested condition in relation to the removal of permitted development rights at the appeal property in relation to Part 1, Class E of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. This condition would serve to duplicate the commitment set out within the UU which would take effect at the point of granting planning permission, whereas the suggested condition would only take effect upon the implementation of the planning permission. As such the condition is not necessary in order to make the development acceptable.
27. I have also not attached the Council's suggested condition relating to the use of the proposed building, as if the building were not to be used for the stated purpose or there was a future material change of use, a further grant of planning permission would be required. Accordingly, such a condition is unnecessary in order to make the development acceptable, and therefore would fail to meet the relevant tests set out within the Framework.

Conclusion

28. For the reasons given, and taking into account all other matters, I conclude that the appeal is allowed, subject to conditions.

C Harding

INSPECTOR