



Appeal Decision

Site visit made on 19 October 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2023

Appeal Ref: APP/N0410/D/23/3314259

Larkswood, Alderbourne Lane, Fulmer, Buckinghamshire, SL0 0NS

- 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 Hussain against the decision of Buckinghamshire Council - South Area (South Bucks).
 - The application Ref PL/22/1977/FA, dated 1 June 2022, was refused by notice dated 14 October 2022.
 - The development proposed is retention of existing garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and site address above from the application form, albeit I have reordered the address. Whilst different to that given on the decision notice, no confirmation has been provided that a change was agreed.
3. At the time of my site visit, an outbuilding was under construction. The development on-site contained a number of openings including windows and doorways and did not reflect the design of this appeal. Accordingly, in the interests of fairness, I have considered the appeal on the basis that the development is proposed as shown on the application drawing.

Main Issues

4. The main issues are:
 - whether the proposal would constitute inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the host building and surrounding 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

Inappropriate Development

5. The Council has identified the appeal scheme as a replacement building. The appellant's appeal statement¹ confirms that the appeal scheme incorporates the former garage rather than replacing it with a new building. In the absence of any substantive evidence to the contrary, I find no reason to disagree that the proposed scheme forms an extension to the existing building and not a replacement.
6. Policy GB1 of the South Bucks District Local Plan (LP) relates to Green Belt and outlines that planning permission will not be granted for development in the Green Belt unless it fulfils certain criteria. Of relevance to this scheme is criterion (e) the Limited extension, alteration or replacement of existing dwellings, in accordance with Policies GB10 and GB11. In accordance with one of the specified criteria, developments will still need to accord with criteria (i) to (iv).
7. Although not cited in the Council's decision notice, both the main parties have referred to Policy GB10 of the LP. The supporting text to LP Policy GB10 states all outbuildings erected since the original dwelling was built, and sited within 5 metres of the dwelling, will be included in any calculations of the floorspace as extensions to the dwelling. The policy goes on to state under criterion (e) in the case of ancillary buildings within residential curtilages in the Green Belt, the building together with any other ancillary buildings would be of a small scale in relation to the size of the dwelling and of a small scale in relation to the size of the residential curtilage. The supporting text also goes on to state that extensions or alterations which increase floorspace by more than half will not be regarded as small scale and in some cases proposals which are below this may also be unacceptable due to their overall size, design and impact on the Green Belt.
8. Neither LP Policy GB1 nor Policy GB10 refer to very special circumstances. They are therefore inconsistent with Framework Paragraph 147. Additionally, Policy GB10 restricts ancillary buildings to be of a small scale in relation to the size of the host dwelling and the size of the residential curtilage. Whilst this does allow for a comparison in size relative to the host dwelling, the Framework does not impose limitations on size extension or alterations to be 'small' or 'small' in relation to curtilage size. For these reasons, neither policy is consistent with the Framework and I afford limited weight to them.
9. Framework Paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, except in certain circumstances. One such exception is set out under Framework Paragraph 149 c), which relates to 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.
10. An outbuilding does not have to be attached to a dwelling to be an extension for the purposes of Framework paragraph 149 c). Relevant case law² makes it clear that the paragraph is not to be interpreted as solely being confined to physically attached structures but that an extension for the purposes of that

¹ Full Statement of Case In Support Of Section 78 Appeal. Prepared by mza planning ref: YM/Hussain/1022/ym

² Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)

provision can include structures which are physically detached from the building of which they are an extension.

11. The Framework does not include guidance on what is considered to be 'disproportionate'. Whether or not extensions and alterations are disproportionate is a matter of planning judgement, having regard to the particulars of a proposed development and the relevant site-specific circumstances. As such, disproportionate additions are not solely based upon a mathematical calculation albeit this can be a good starting point.
12. The host dwelling has previously been extended. The proposal would increase the footprint of the former garage and also increase its volume. The Council estimates the size increase to be approximately 49.69% over that of the original building, including the original garage. Whilst the figure is disputed, no cogent evidence to demonstrate an alternative figure has been supplied by the appellant. Even if a lower figure were to be demonstrated, the supporting text to Policy GB10 states that in some instances, development which increases the floorspace by less than half may also be unacceptable within the Green Belt. Therefore, simply because a development does not increase the footprint above 50% of the original dwelling does not mean it is deemed compliant with Policy GB10.
13. Based upon my observations and the evidence before me when taking the previous and proposed developments together, these increases would amount to a substantial addition to the property, and one which I find to be disproportionate over and above the size of the original building. Furthermore, whilst the garage would only take up a small area of curtilage within the plot due to its siting, size and bulky roof form, it would not appear small in comparison with the host dwelling.
14. For these reasons, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. The proposal would conflict with Policies GB1 and GB10 of the LP, and the associated policies of the Framework.

Openness

15. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness and permanence. An assessment of openness requires consideration of both spatial and visual aspects.
16. The works to the garage would see an increase in footprint, height and volume, extending the built form further into the open area and upward. This would reduce the gap between the buildings and cause the proposed development to have a visual effect on openness. As the effect of the proposed works would only be perceived from limited vantage points, the adverse effect on the visual openness would be moderate. Additionally, the proposed alterations to the garage are of not of a significant scale and therefore have a moderate spatial impact on the Green Belt.
17. For the reasons above, although localised and limited, the proposed extension would result in spatial and visual harm to the openness of the Green Belt. It would not preserve the openness of the Green Belt contrary to the fundamental aim of the Framework.

Character and Appearance

18. Alderbourne Lane (the lane), closest to the appeal site, is characterised by a small number of well-sized detached houses set back from the lane and situated in plots with large, leafy gardens. Built development found close to Alderbourne Lane is generally low level-sited close to trees and hedge planting either side of the lane. Within the wider area are expansive areas of woodland and open fields, giving the area an open and verdant character and appearance.
19. The proposed garage would be sited close to the northeast of the host property. It would also be constructed of brick and roof tiles, which would be sympathetic to the locality. It would be partially screened from views by existing trees and the appeal site's boundary treatment close to the lane. Nonetheless, it would still be visible from the public realm above the front boundary treatment and through gaps in the trees, particularly during winter months. Due to its siting to the front of the appeal site, its proximity to the public highway and its overall scale, height and roof form in this location, the garage would appear as a visually prominent and intrusive addition within the street scene. This would be exacerbated by its rather awkward shape and distance from the host dwelling with which it would visually and harmfully compete with.
20. In support of the proposed scheme, the appellant has drawn my attention to a previously approved scheme³ (previous scheme). The footprint of the appeal scheme would be marginally smaller in comparison to the previous scheme. However, despite a partially tapered roof, it would have a considerably bulkier and wider overall roof that would be incongruous within the street scene. Additionally, given its size and location, when glimpsed from the lane and within the site, the garage would visually compete with the host building rather than result in a level of subservience that would ensure its satisfactory integration.
21. Furthermore, the harms identified above would not be overcome by minor land-level alterations, which in themselves could give rise to their own separate harms to the character and appearance of the area.
22. For the reasons above, the proposed garage, due to its size, design, height and location, would have a harmful effect on the character and appearance of the host dwelling and the surrounding area. It would therefore conflict with Policies EP3 and H13 of the LP and Policy CP8 of the South Bucks Local Development Framework Core Strategy Development Plan Document. Together, amongst other things, these seek new development, including ancillary buildings to be subordinate in scale to the existing dwelling and be of a high standard compatible with the character and amenities of the site and surrounding area. For similar reasons, it would conflict with the provisions of the Chiltern and South Bucks Townscape Character Study and the Framework in so far as they seek the development to be sympathetic to local character.

Other Considerations

23. I have taken account of the benefits of the proposal highlighted by the Appellant. This includes the need to provide the building for the storage of

³ Ref: PL/21/1292/FA

vehicles and additional storage. However, I only give these personal benefits little weight since it would be likely that the new development would be in place long after the personal circumstances have ceased to apply.

24. I accept that the fallback position for a garage in a similar location is available and a material consideration in the assessment of the proposal. However, for significant weight to be afforded to a fallback position, there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme. As I have identified above, the previous scheme would be less harmful for the reasons set out and does not lead me to a different conclusion with regard to the appeal scheme.
25. In support of the appeal, my attention has been brought to a number of garages located to the front of existing dwellings. Whilst I do not have full details, I note the garage at Balamere Lodge⁴ is set further back from the road and also to the side of the property. From the images provided in the appellant's statement, many other examples appear to be set back from the road, and some appear attached to the host dwelling. Additionally, some of the examples are not identified as being within the Green Belt. As such, I can draw no comparisons which weigh in favour of the proposal.
26. Moreover, the existence of development elsewhere, whether it be adjacent to the appeal site or elsewhere, does not represent an appropriate reason to find in favour of a proposal that would cause harm in this case, a case I have considered on its own merits.

Other Matters

27. The Council's officer report refers to LP Policy H12 for self-contained residential annexes to provide ancillary accommodation. However, as the development is for a garage, I have not considered this policy and determined the scheme on its own merits for the development proposed.
28. I acknowledge the appellant's comments with regard to the size of an outbuilding and incidental use alongside the case details provided⁵. However, I have not found it necessary to consider this further as the Council has refused the scheme for unrelated reasons.
29. I acknowledge the appellant has encountered difficulty as part of the previous scheme, which has, in part, resulted in this appeal. However, I must deal with an appeal on its own merits.
30. The appellant has highlighted that applications from a nearby film studio are to be submitted. However, these fall outside the scope of this appeal, and the appellant should submit any comments on such proposals to the Council. Similarly, existing issues with other associated development or noise nuisance would also need to be submitted to the Council.

Planning Balance and Overall Conclusion

31. The development conflicts with LP Policies GB1 and GB10. However, these policies are not wholly consistent with the Framework for the above reasons. As such, they cannot be afforded any significant weight and significant weight should be attached to the Framework in this regard.

⁴ Ref: PL/21/1799/FA

⁵ *Emin v Secretary of State for the Environment and Mid Sussex District Council* (1989)

32. The proposal would be inappropriate development in the Green Belt and would lead to a reduction in its openness. The Framework clearly sets out that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. It also outlines that very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. I afford substantial weight to the harm to the Green Belt, in accordance with the Framework and also some limited weight to the harm to the character and appearance of the host dwelling and wider area. This harm would not be clearly outweighed by the fallback position identified or the minor benefits of the proposal. As such, very special circumstances do not exist.
33. Given the substantial weight to be given to Green Belt harm combined with the other identified harm and the limited benefit of the proposed scheme, the harm is not clearly outweighed by other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist, such that the appeal should be dismissed.

A Hickey

INSPECTOR