

Appeal Decision

Site visit made on 2 February 2024

by K E Down MA(Oxon) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th February 2024

Appeal Ref: APP/J1915/D/23/3330627

Tollgate House, Amwell Hill, Great Amwell, Hertfordshire, SG12 9QZ

- 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 Ross Newham against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/1239/HH, dated 26 June 2023, was refused by notice dated 23 August 2023.
 - The development proposed is erection of a new 2-bay cart shed.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the application was determined, a revised National Planning Policy Framework (Framework) was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework and new paragraph numbers in reaching my decision.

Main Issues

3. There are four main issues. Firstly, whether the proposed outbuilding would amount to inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; secondly, the effect of the proposed outbuilding on the openness of the Green Belt; thirdly, the effect of the outbuilding on the character and appearance of the area with regard to trees and the setting of the Grade II listed building; and fourthly, if the proposed outbuilding would amount to inappropriate development, whether the harm, by reason of inappropriateness and any other harm is clearly outweighed by other considerations, such as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

4. Amwell Hill (A1170) is a busy road that lies within the Green Belt. There is sporadic development on both sides of the highway. The appeal site is accessed via a gated entrance off Amwell Hill. It comprises a Grade II Listed dwelling set on a large and steeply sloping plot. The dwelling is on high land with the site entrance and site of the proposed cart shed on the lowest part of the site, some 55m away. Despite the presence of other buildings, including dwellings, in the vicinity the site is not within a defined settlement and the character of the area is that of open countryside.
5. The proposed cart shed would have two bays and a roughly square footprint. It would have a pitched, tiled roof. It would be located immediately to the northwest of the site entrance and under the canopy of a large tree. The existing drive would be extended to provide access to the cart shed. This would come within a short distance of the tree trunk.
6. Policy GBR1 of the East Herts District Local Plan (LP), 2018, states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 states that the construction of new buildings should be regarded as inappropriate except in a number of circumstances, such as 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.
7. Although the proposed building is not a conventional extension, the High Court has ruled [*Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)*] that for the purpose of Green Belt assessment an outbuilding should not be assumed not to be an extension simply because it is not physically attached to the host building. Whether a detached structure would amount to an extension of the existing building is a matter of fact and degree. Factors that may be relevant include whether, in the case of a residential outbuilding, it would be a “normal domestic adjunct”, its purpose, its relationship with the original building and its size.
8. In this case the cart shed in itself would not be excessive in size. However, it is clear from the evidence that a number of other planning permissions have been granted for the extension of the original dwelling. It is not therefore clear whether the cart shed, in conjunction with other extensions, would amount to a disproportionate addition over and above the size of the original dwelling. Moreover, although its use may be for the parking of domestic vehicles, this is not clear from the evidence and there is an existing garage at the site, closer to the dwelling. Finally, the outbuilding would be a significant distance from the original dwelling. The functional relationship between the original dwelling and the proposed cart shed is thus not proven and the significant separation distance reinforces my view that, on the basis of the evidence, it could not reasonably be considered as an extension to the original dwelling. The

exceptions set out in paragraph 154 of the Framework do not therefore apply in this case.

9. It is concluded on the first main issue that the proposed cart shed would amount to inappropriate development in the Green Belt. The Framework advises that substantial weight should be given to any harm to the Green Belt, including that by reason of inappropriateness.

Openness of the Green Belt

10. The Framework states that the essential characteristics of Green Belts are their openness and permanence. The proposed cart shed would be a modest structure on a currently undeveloped site resulting in harm to the spatial openness of the Green Belt. However, it would be largely hidden from beyond the appeal site and domestic in scale and would result in limited harm to the visual openness of the Green Belt.
11. It is concluded on the second main issue that the proposed outbuilding would lead to some minor harm to the openness of the Green Belt.

Character and appearance

12. Tollgate House is a Grade II listed building constructed in the seventeenth century forming a small house. Its significance largely derives from its architectural and historic interest as an early example of domestic rural architecture contributing to an understanding of its significance in the countryside.
13. The proposed cart shed would be located close to several mature trees which contribute to the setting of the listed building and to the wider, wooded setting of Amwell Hill. In addition, they have amenity and biodiversity value. In particular, the building would lie within the root zone and under the canopy of one particularly large and prominent tree which is visible from the street and makes a significant contribution to the character and appearance of the appeal site. The proximity of the proposed cart shed and the extended driveway to the trees means that there is clear potential for harm to either or both the root zone and canopy during construction or in the longer term. No evidence has been submitted regarding the trees, their ability to withstand development in close proximity or any details of the proposed foundations or paving that might ameliorate potential harm.
14. It is suggested that planning conditions could be used to require an arboricultural assessment prior to development. However, I have no evidence that suitable methods could be employed to protect the trees, given their proximity to the proposed building. In consequence, there is no certainty that there would not be material harm to or potential loss of trees and hence no certainty that the setting of the listed building and the character and appearance of the wider area or biodiversity would be preserved.
15. The harm I have found to the setting of the listed building is less than substantial but nevertheless of considerable importance and weight. There would be minor economic benefits from the purchase and installation of the materials for the structure. However, these would be insufficient to outweigh the considerable importance and weight I attach to the harm I have identified.

16.I therefore conclude on the third main issue that the proposed outbuilding would have a potentially harmful effect on the character and appearance of the area with particular regard to trees and the setting of Tollgate House a Grade II listed building. In consequence, it would conflict with LP Policies HA1, HA7, NE3, DES3 and DES4. Taken together and amongst other things these expect new development to preserve and where appropriate enhance the historic environment including the setting of listed buildings, not to result in the loss of or significant damage to trees and to retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value.

Other considerations

17.The appellant draws my attention to the design and overall scale, mass and bulk of the proposed cart shed and to its siting and use that he says would be incidental to the enjoyment of the dwelling. In addition, the appellant would be willing to enhance soft landscaping through the provision and implementation of a landscaping scheme. These matters, it is suggested, might amount to the very special circumstances necessary to justify the proposal.

18.However, all development, both inside and outside the Green Belt, should be of a high quality design and of a size and in a location that does not materially harm the existing surroundings. Moreover, the provision of enhanced landscaping is frequently necessary. I do not therefore find that these matters could be afforded more than limited weight.

19.It is therefore concluded on the fourth main issue that the other considerations drawn to my attention would be insufficient clearly to outweigh the harm that would be caused to the Green Belt by reason of inappropriateness and harm to the openness, which carries substantial weight, and the potential harm to the character and appearance of the wider area, the setting of the listed building and to biodiversity. The very special circumstances necessary to justify the development do not therefore exist and the proposed outbuilding would conflict with LP Policy GBR1 and national policy set out in the Framework.

20.For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KE Down
INSPECTOR