



Appeal Decisions

Site visit made on 5 March 2024

by H Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2024

Appeal A Ref: APP/Q3630/C/23/3324289

Appeal B Ref: APP/Q3630/C/23/3324290

4 Aymer Close, Staines-Upon-Thames TW18 3NL

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended) (the Act).
 - The appeals are made by Mr William John (Appeal A) and Mrs Genty Smith (Appeal B) against an enforcement notice issued by Runnymede Borough Council.
 - The notice was issued on 15 May 2023.
 - The breach of planning control as alleged in the notice is, without planning permission, the erection of a three bay garage edged and hatched blue on the Plan.
 - The requirements of the notice are to:
 - 5.1 Demolish the three-bay garage; and
 - 5.2 Remove resultant waste and material from the Land,
 - The period for compliance with the requirements is three (3) months.
 - Appeal A is proceeding on the grounds set out in sections 174(2)(a), (f) and (g) of the Act. Since Appeal A has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - Appeal B is proceeding on the grounds set out in sections 174(2)(f) and (g) of the Act.
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Decision

1. Appeal A on ground (a) is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 (as amended) for the development already carried out, namely the erection of a three bay garage edged and hatched blue on the Plan, at 4 Aymer Close, Staines-Upon-Thames TW18 3NL, as shown on the plan attached to the notice.

Preliminary Matters

2. The Runnymede Borough Council 2030 Local Plan (Adopted July 2020) (LP) states that the Council will exercise strict control over development within the Green Belt in accordance with national guidance. National planning policy regarding the Green Belt is set out in the National Planning Policy Framework (the Framework), which was updated in late 2023. Green Belt policy within the Framework did not change, but the paragraph reference numbers within Chapter 13 went up by 5 (eg paragraph 149 became 154). Green belt policies within the LP are broadly consistent with the Framework.
3. During my site visit it was evident that there are a number of other structures on the site, as well as a number of vehicles being stored there. I have no detail on the planning status of these. The notice subject to this appeal relates only to the garage identified on the plan. Therefore, any permission which may be granted under the appeal relates only to the garage.

The appeal on ground (a) and the deemed planning application

4. Appeal A on ground (a) is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation. Hence, the development for which planning permission is sought, is the erection of a three bay garage.
5. The dwelling itself at 4 Aymer Close is outside of the Green Belt. However, the garage is located predominantly within the Green Belt. This is not in dispute. The Framework and the LP sets out that development within the Green Belt is inappropriate, with certain specified exceptions, and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in very special circumstances.

Main Issues

6. The main issues are:
 - Whether the development is inappropriate development in the Green Belt, having regard to the Framework and relevant Local Plan policies;
 - The effect of the development on the openness of the Green Belt;
 - Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the development is inappropriate development in the Green Belt

7. Framework paragraph 154 sets out exceptions, whereby new buildings in the Green Belt would not be inappropriate. Paragraph 154c allows for 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. Paragraph 154d allows for the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. These exceptions are reflected in Policy EE14 of the LP. Paragraph 154g allows for limited infilling or the partial or complete redevelopment of previously developed land, subject to the impact on openness. This exception is reflected in Policy EE17 of the LP.
8. Case law¹ has clarified that the exception set out in paragraph 154c "is not to be interpreted as being confined to physically attached structures, but that an extension for the purposes of that provision can include structures which are physically detached from the building of which they are an extension." In accordance with this ruling, whether or not a detached outbuilding can be considered to be an extension to a dwelling, for the purposes of paragraph 154c, is a matter of fact and degree. The garage in this case can potentially be considered a normal domestic adjunct² which is used for storage of vehicles as part of its relationship with the dwelling. Notwithstanding this, even if I did consider the garage to be an extension to the dwelling, an assessment of proportionality still has to be made.

¹ Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin).

² The expression used in Sevenoaks DC v SSE & Dawe [1997].

9. I have not been presented with precise details, but the aerial images made available to me, supported by the planning history, show that both the footprint and floorspace of the dwelling have previously been extended, by what I consider to be a significant amount. In addition, there are a number of other outbuildings within the curtilage, close to the dwelling. Given the previous extensions, the addition of the substantial garage would be disproportionate in terms of size, when compared to the original dwelling. While the dwelling and its previous extensions are outside of the Green Belt, the garage is within it, so the consideration of proportionality is still applicable. On this basis, even if the garage is an extension to the dwelling, it results in disproportionate additions over and above the size of the original dwelling building. Therefore, the exception at Framework paragraph 154c does not apply and the garage fails to comply with Policy EE14 of the LP.
10. The appellant has suggested that a building may have existed on site in a similar location to the current garage. Aerial images provided by the Council show the area as being hard surfaced from at least 2008, with large vehicles parked there on several occasions, but no building since at least 2002. Beyond an outline on an OS Map extract³, the appellant has provided no substantive evidence which would lead me to conclude that a building has existed in the approximate location of the garage, within any timeframe relevant to this appeal. On this basis, I do not consider the garage to be a replacement building. Therefore, the exception at Framework paragraph 154d does not apply and the garage fails to comply with Policy EE14 of the LP.
11. The garage is within a residential garden, adjacent to the town, and between the town and the dwelling at 4 Aymer Close. As such, I do not consider the garage location to accord with the Framework definition of previously developed land. Therefore, the exception set out under Framework paragraph 154g does not apply and the garage fails to comply with Policy EE17 of the LP.
12. Overall, the garage does not meet any of the exceptions set out in the Framework and fails to comply with Policies EE14 and EE17 of the LP. Therefore, the garage constitutes inappropriate development in the Green Belt and is, by definition, harmful to the Green Belt.

The effect of the development on the openness of the Green Belt

13. Case law⁴ has confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. 4 Aymer Close is accessed via a long driveway off Aymer Drive and the dwelling is surrounded by a large hard surfaced area, including within the Green Belt. The site shares a boundary to the east with some neighbouring residential properties but does not have any direct street frontage. Due to this particular context and layout, the garage is visible from a few neighbouring dwellings, but not from public perspectives. As such, it does not have a detrimental impact on the visual aspect of openness. The garage adds built form where there previously was none, but in a location very closely associated with the pre-existing built form and in an area already hard surfaced. Therefore, while the garage inevitably has an impact on the spatial aspect of the openness of this part of the Green Belt, due to the context, the level of harm is minimal.

³ This could denote the location of a caravan, container or large vehicle at the time the OS Map image was created, as is the case elsewhere on the site and the wider site in the same ownership.

⁴ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 46

14. In accordance with the Framework, inappropriate development is, by definition, harmful to the Green Belt and substantial weight should be given to any harm to the Green Belt. I must therefore ascribe substantial weight to this minimal harm.

Other considerations

15. The Council have found the garage to be acceptable in terms of any impact on character and appearance, neighbour living conditions and flood risk. On the evidence before me and observations made during my site visit, I have no reason to conclude otherwise. Therefore, I find no non Green Belt harm.
16. The appellant has stated that should this appeal fail, and they are required to remove the current garage, they would construct an alternative garage elsewhere on site, under permitted development rights. Given the size of the appellants car collection and the clear desire to accommodate some of them near the dwelling, I consider there is a greater than theoretical possibility that a permitted alternative garage would be constructed, so this constitutes a realistic fallback position. Consequently, it is necessary to compare the impact of a fallback permitted alternative garage to the impact of the garage subject to this appeal.
17. Subject to compliance with various criteria and conditions⁵, including on location and height, a garage of a similar scale to the appeal garage could be built elsewhere within the curtilage of the dwelling under permitted development rights. Various possibilities have been outlined by the appellant.
18. Given the location and orientation of the dwelling, any permitted alternative garage would be located to the west of the current position. This would be away from the edge of the settlement and further into the Green Belt. Detachment from the main built up area, and extending built form and mass further into the Green Belt would have a materially greater impact on Green Belt openness than the garage subject to this appeal. Therefore, the fallback position would be significantly more harmful to the openness of the Green Belt than the current garage, so weighs in favour of granting permission.
19. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. In the particular circumstance and context of this site, the Green Belt aims are better served by the garage subject to the appeal, than by the fallback. Consequently, in the interest of the Green Belt aims, I ascribe substantial weight to the fallback.

Whether very special circumstances exist

20. The garage is inappropriate development in the Green Belt, so I ascribe substantial weight to any harm. However, the level of harm to the Green Belt, by virtue of inappropriateness and impact on openness, is minimal. There are no other harms. The fallback position weighs substantially in favour of granting permission for the garage subject to this appeal. Consequently, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development.

⁵ As set out under Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Conclusion on ground (a) and the deemed planning application

21. I conclude that the garage is inappropriate development in the Green Belt, but very special circumstances exist to justify the development. Therefore, the development does not conflict with Green Belt policy set out in the Framework and the Local Plan and complies with the development plan as a whole. Appeal A on ground (a) succeeds and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

The appeals on grounds (f) and (g)

22. An appeal on ground (f) is that the steps required by the notice exceed what is necessary. An appeal on ground (g) is that any time period specified in the notice falls short of what should reasonably be allowed. As Appeal A succeeds on ground (a), and I shall grant planning permission for the development described in the notice, Appeal A and Appeal B on grounds (f) and (g) do not fall to be considered.

H Davies

INSPECTOR