



Appeal Decisions

Site visit made on 8 March 2024

by James Blackwell LLB (Hons) PGDip, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15th April 2024

Appeal A Ref: APP/K0425/C/22/3313351

Tycoed, Sandpits Lane, Tylers Green, Buckinghamshire HP10 8HD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
- The appeal is made by Mr M Jacobs against an enforcement notice issued by Buckinghamshire Council.
- The notice was issued on 2 November 2022.
- The breach of planning control as alleged in the notice is "Without planning permission, the erection of a detached garage".
- The requirements of the notice are to:
 - 1) Demolish and remove the detached garage from the Land (as shown in the approximate position marked hatched on the attached plan); and
 - 2) Remove all materials resulting from the carrying out of step 1, from the Land.
- The period for compliance with the requirements is four months of the notice taking effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f), (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary Decision: The appeal is dismissed and the enforcement notice is upheld with a variation in the terms set out below in the Formal Decisions.

Appeal B Ref: APP/K0425/W/22/3305836

Tycoed, Sandpits Lane, Tylers Green, Buckinghamshire, HP10 8HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr M Jacobs against the decision of Buckinghamshire Council.
- The application Ref is 21/08200/FUL.
- The development is the construction of a triple garage (retrospective).

Summary Decision: The appeal is dismissed.

Preliminary Matters

1. Appeal A and Appeal B both concern the construction of a detached garage within a residential property. Appeal A relates to the enforcement notice (EN) issued in connection with the garage. Appeal B relates to a separate retrospective planning application for the construction of the same garage, which was refused by the Council. Given the appeals concern the same development, I have addressed them together in my reasoning.
2. In terms of Appeal B, I have taken the description of development from the Council's decision notice, as this more accurately describes the development.
3. Since submission of the appeals, the National Planning Policy Framework has twice been superseded. Nonetheless, I am satisfied that the updates do not

materially affect its content insofar as it is relevant to the main issues of this appeal. I have therefore determined these appeals with regard to the latest version, published in December 2023 (Framework).

Lawful Development Certificate

4. The Council issued a Lawful Development Certificate (ref 17/07280/CLP) on 30 November 2017 (LDC) which confirmed the lawfulness of a detached triple garage within the appeal property at the date of application (being 8 September 2017). The LDC was approved on the basis that the garage would comply with the limitations of Class E, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). Subject to certain conditions, this part of the GPDO sets out permitted development rights which may apply to buildings incidental to the enjoyment of a dwellinghouse.
5. The constructed garage is very different to the garage approved under the LDC. It is much taller, it incorporates a second storey, and it comprises a very different roof profile, which includes gable features and dormer windows. Even though the garage may follow the same footprint and base as the garage approved under the LDC, the material differences between the two mean that the building operations used in its construction cannot be said to have "implemented" the development approved under the LDC.
6. Section 192(4) of the Act says that the lawfulness of any operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the operations are begun, in any of the matters relevant to determining such lawfulness.
7. Since the LDC was issued, the original dwelling within the appeal property has been demolished, and replaced with a new dwelling. As part of this redevelopment, the orientation of the dwelling has changed, so that its principal elevation faces northwards and not eastwards. If built, this means the garage approved under the LDC would now be sited forward of the frontage to the main dwelling, and would no longer comply with the relevant provisions of the GPDO¹.
8. As per s192(4) of the Act, this would constitute a material change to a matter relevant to determining the lawfulness of the garage approved under the LDC. Consequently, the garage approved under the LDC would no longer be permitted development, and in turn, would not be lawful without planning permission. In turn, the garage approved under the LDC does not represent a fallback, and therefore has no bearing on my conclusions with respect of the appeals before me.

Appeal A (Ground A) and Appeal B

Main Issues

9. The main issues are:
 - (a) whether the development represents inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;

¹ E1(c), Class E of Part 1, Section 2 of the GPDO

- (b) the effect of the development on the openness of the Green Belt;
- (c) the effect of the development on the character and appearance of the area; and
- (d) 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 development.

Reasons

Inappropriate Development

10. The appeal site is located within the Green Belt. The Framework is explicit that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
11. Paragraph 154 of the Framework sets out a number of exceptions where the construction of new buildings within the Green Belt may not be considered inappropriate. Under paragraph 154(c), these exceptions include 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. Whilst the garage is not strictly an extension, it is ancillary to the main dwelling, and the exception could therefore be relevant. Indeed, Policy DM43 of the Wycombe District Local Plan (2019) (Local Plan) which relates to the extension of dwellings within the Green Belt, explicitly includes outbuildings within the scope of such extensions.
12. Whilst the Framework is not prescriptive in terms of “*disproportionate additions*”, Policy DM43 sets out a number of conditions pertaining to size, which must be met for an outbuilding (which is located outside of a built-up village, as is the case here) to be considered not inappropriate development within the Green Belt. These conditions say that the total volume of all existing and proposed outbuildings on the property must not exceed 140 cubic metres. The conditions also say that no part of the building can have more than a single level and that its height must not exceed 4 metres at any point.
13. In this instance, the garage is said to have a volume of 296 cubic metres, which is more than double the prescribed limit in Policy DM43. It has a ridge height of approximately 5.7m, which again far exceeds the policy limit, and it also incorporates a second storey. When assessed against Policy DM43, these factors are indicative of the garage’s size being excessive.
14. The garage is undoubtedly a substantial structure: it has a large footprint which incorporates a triple garage at ground level; and there is a second storey above the garage which encompasses the same footprint. Its gable roof design also means its ridge height extends across the full width of the garage. Moreover, its second storey includes a front and rear gable feature, together with a front dormer window either side, all of which further amplify its overarching size.
15. On account of these features, the building appears considerable in terms of size and bulk, and fails to appear subservient to the main dwelling. It could be perceived as a separate independent dwelling (or other substantial living accommodation) rather than simply a garage. Even in the context of the large

main dwelling, which is substantially larger than the original dwelling which it replaced, the garage therefore appears disproportionate in size as an outbuilding.

16. In turn, the development would not fall within the exception under paragraph 154(c) of the Framework. Moreover, none of the other exceptions under paragraphs 154 or 155 would appear relevant to the development in this instance (noting neither party has suggested otherwise). When assessed against the provisions of the Framework, the development therefore represents inappropriate development in the Green Belt. It is also inappropriate when assessed against Policy DM43 and Policy CP8 of the Local Plan, which are both consistent with the overarching aims and provisions of the Framework with regard to development in the Green Belt.

Openness

17. The garage sits close to the front boundary of the appeal property, and occupies a prominent position within a bend in the lane. Prior to the development, the land would have formed part of the garden to the appeal property, thereby contributing to a sense of openness in and around the main dwelling.
18. On account of the garage's substantial footprint and height, the building invariably results in some loss of openness within the appeal property. Notably, the garage sits much taller than the front boundary treatments to the property, which means it the loss of openness is clearly perceived on the approach to the dwelling, thereby diminishing the sense of openness along this prominent part of the lane. This loss of openness weighs further against the development, given the fundamental aim of the Green Belt to keep land permanently open.

Character and Appearance

19. Dwellings along Sandpits Lane are mixed in design, but are typically detached and set within large and verdant plots. Many of the houses are set substantially back from the road and benefit from ample front gardens. These features give properties along the road a strong sense of space and openness, which contributes positively to the overarching character of the lane.
20. As already mentioned, the introduction of such a large garage to the front of the appeal property undermines the sense of space around the appeal property, and appears at odds with the more spacious frontages of neighbouring dwellings. Several of the houses along the opposite side of the road are also low-level bungalows, and the proximity of the garage to the front boundary amplifies its uncomfortable relationship with these properties, given its two-storey height.
21. As a result, the development also harms the broader character and appearance of the lane. It conflicts with Policies CP9 and DM35, both of which emphasise the need for development to protect, and where possible enhance, the character of the area in which it is situated. It also conflicts with the Council's Residential Design SPD (2017), which says garages should not be set forward of the main dwelling, nor located within a junction or bend in a road.

Other Considerations

22. The appellant is the owner and CEO of a business which provides critical infrastructure support to parts of the medical industry. The appellant says he needs a separate workspace at home, to ensure he is available to service the needs of the business at all times. Whilst the space above the garage would certainly provide ample workspace to meet such need, there is nothing before me to demonstrate why this need could not be accommodated within the main dwelling, noting its substantial size. In turn, this benefit only attracts limited weight, and no other benefits have been identified.
23. Consequently, there are no other considerations in this case which would clearly outweigh the harm by reason of inappropriateness, and the other harm identified to openness and to the character and appearance of the area. In turn, the very special circumstances necessary to justify the development do not exist in this instance.
24. The development therefore conflicts with paragraph 152 of the Framework, which says inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As outlined above, the development also conflicts with Policies CP8, CP9, DM35 and DM43 of the Local Plan.

Appeal A (Ground A) and Appeal B - Conclusion

25. For the reasons given, the development conflicts with the development plan as a whole and there are no other considerations, including the provisions of the Framework, that outweigh this finding.
26. The appeals under ground (a) (Appeal A) and Appeal B therefore fail.

Appeal A - Ground (f)

27. Pursuant to ground (f), the appellant says that the steps required to be taken in the EN exceed what is necessary to remedy the alleged breach of planning control. In particular, the appellant says they should be allowed to alter the garage in accordance with the garage approved under the LDC.
28. However, for the reasons highlighted in the preliminary matters to this decision, the appellant has lost the benefit of the LDC for a single storey triple garage in the same location as the garage now constructed. This means there is no available fallback which could be introduced as an alternative requirement to complete demolition.
29. Moreover, as per s173(4) of the Act, the purpose of the EN is to remedy the breach of planning control, being the unauthorised erection of a detached garage. The requirements set out in the notice must therefore achieve this purpose. In this instance, the steps require removal of the garage and all associated debris and materials arising from this demolition. These steps go no further than remedying the original breach of planning control as described in the EN, and any lesser steps would not properly achieve this purpose.
30. The appeal on ground (f) therefore fails.

Appeal A – Ground (g)

31. Pursuant to ground (g), the appellant contends that the period for compliance with the requirements of the EN falls short of what should reasonably be allowed. The EN currently allows four months for the requirements to be carried out.
32. The appellant says he would need sufficient time to relocate business equipment and facilities which have been installed within the building. However, on my site visit, the second storey did not appear to be in use for business purposes, and instead appeared to still be undergoing internal fit out. Any relocation of business equipment should therefore not necessitate an extension of time to comply with the requirements.
33. Nonetheless, a contractor will likely be needed to carry out the requirements, which in the current climate, may take time to line up and become available. In the circumstances, I therefore consider that a period of six months to comply with the requirements of the EN would be more appropriate.
34. The appeal on ground (g) therefore succeeds, but only to the extent outlined.

Conclusion

35. For the reasons given, I conclude that the appellant should be given more time to comply with the requirements of the EN. The appeal on ground (g) therefore succeeds.
36. However, for the reasons outlined, the appeal on grounds (a) and (f) should not succeed. Appeal B also fails. I shall therefore uphold the enforcement notice with a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

Formal Decisions

Appeal A

37. It is directed that the enforcement notice is varied by:

(a) substituting reference to “four months” in paragraph 6 with “six months”.

Subject to this variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B

38. The appeal is dismissed.

James Blackwell

INSPECTOR