



Appeal Decision

Site visit made on 17 April 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Appeal Ref: APP/M1595/D/23/3330818

Alcott, Oxford Road, Horndon on the Hill, Thurrock SS17 8PX

- 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 Ms Gloria Ward against the decision of Thurrock Borough Council.
 - The application Ref 23/00735/HHA, dated 20 June 2023, was refused by notice dated 7 August 2023.
 - The development proposed is described as retrospective garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged the revised National Planning Policy Framework (2023) (the Framework) was published on 19 December 2023. In the context of the main issues in this appeal, the Framework's policies have not materially changed, so there is no requirement for me to seek submissions on this latest version, and I am satisfied no party would be prejudiced by this approach. The numbering below reflects the revised Framework.
3. The application form confirms that the application is retrospective, and the development has been carried out, which reflects what I saw on my site visit.

Main Issues

4. The main issues are:
 - whether or not the development is inappropriate development in the Green Belt;
 - the effect of the development upon the openness of the Green Belt; and,
 - if the development is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, and if so, would this amount to the very special circumstances required to justify the development.

Reasons

Inappropriate development

5. The appeal site comprises a detached dwelling and its plot in the Green Belt, constructed under a consent¹ to replace a previous dwelling. The Council's approach is that, though detached, the function and relationship of the appeal garage and dwelling is such that the garage is regarded as an extension or alteration to the dwelling. The appellant has not argued this incorrect and from what I saw and the evidence before me I see no reason to disagree.
6. Paragraph 142 of the Framework states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Policy PMD6 of the Thurrock Core Strategy and Policies for the Management of Development (as amended) (2015) (the TCS) states permission will only be granted for new development in the Green Belt, provided it meets the requirements of the Framework, other policies in the TCS, and listed policy criteria for Green Belt exceptions.
7. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to certain exceptions. An exception at paragraph 154c) is the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. PMD6 sets out what is considered disproportionate additions, and what is the original building.
8. Though in the first part of its definition the policy text of PMD6 defines the original building in a similar way to the Framework, the policy text also specifically states that any building which is itself a replacement, will not be considered the original. Proposals for further extension or replacement of that replacement will be judged by reference to the original building which preceded it. Criteria 1) states disproportionate means no larger than two reasonably sized rooms or any equivalent amount. This allowance is worked out by dividing habitable room floorspace by the number of habitable rooms, then multiplying it by two.
9. The delegated report states the total of the previous dwelling, its two-room extension allowance under Policy PMD6, the garage and an outbuilding combined was approximately 199.6 sqm. The replacement current dwelling is approximately 198.7 sqm in floorspace, so it has already used all but 0.9 sqm of the two reasonably sized rooms allowance. This appeal garage seeks to retain approximately 33.4 sqm of floorspace. Though the garage might be regarded as compliant with part 1 of the policy read in isolation, it is a detailed policy, and its wording must be read as a whole.
10. No other exceptions have been advanced to me. Condition 4 of the previous consent required the removal of the previous garage, prior to construction of the dwelling. There is nothing before me to suggest garage demolition did not take place as required, so on that basis, though the appeal garage is in a similar location, it could not be regarded as a replacement building under Framework paragraph 154d) or Part 2) of Policy PMD6 of the TCS.

¹ Permission Ref. 16/00925/FUL.

11. Based upon its definition of disproportionate additions and the original building, the footprint and scale of the development does not meet the exception under Policy PMD6. Therefore, it constitutes inappropriate development in the Green Belt under Policy PMD6, which is by definition harmful to the Green Belt.

Openness

12. The garage provides a single parking space and allows some further storage, so represents a significantly sized pitched roof building standing away from the host dwelling, adding a new building on what was previously driveway space. Were the stone driveway considered as operational development the new garage might not be considered to have an adverse effect upon the spatial openness of the Green Belt.
13. However, by virtue of being significantly above the level of the driveway it inherently diminishes and has a marked adverse effect upon the visual openness of the Green Belt in this location. As well as being visible from within parts of the appeal site, the effects upon visual openness are visible from some rural land and buildings due south of the site, from the north from parts of Oak Cottage and St Benedict's, and to a very limited degree from the Old Chapel. Therefore, the development has an adverse effect upon the openness of the Green Belt, at odds with a fundamental aim of Green Belt policy.

Other Considerations

14. The appellant is of the view that the appeal scheme is not inappropriate development in the Green Belt if the Framework's definition of the original building is applied. At Annexe 2, it defines the original building as being as it existed on 1 July 1948 or, if constructed after, as it was built originally.
15. Though initially adopted in 2011, the TCS focussed review and its examination was undertaken to ensure compliance with the Framework when published in 2012². By referring to Framework compliance, Policy PMD6 clearly takes into account the 2012 Framework. There is nothing before me to lead me to conclude relevant Framework Green Belt policies materially differed to what they do now, or that the TCS, its examination and adoption was unsound.
16. While development plan policies should be consistent with the Framework, I am not convinced this means they must be exactly the same. Policy PMD6 follows the broad approach of the Framework and adds to it, by seeking to prevent incremental development creep in the Green Belt by inappropriate development over time in respect of replaced buildings. Therefore, it has a clear rationale having regard to the aims of Green Belt policy and I see no reason to reduce the weight attributed to it. The absence of conflict with the exception in the Framework as a material consideration, attracts moderate weight.
17. Permission Ref. 16/00925/FUL is subject to a condition withdrawing permitted development rights under Classes A, B, C and E of Part 1 of the GPDO³, imposed having regard to Green Belt openness. There is nothing before me to lead me to the view that conditions withdrawing permitted development rights are untypical in newer replacement dwellings in the Green Belt.

² Page 3 of the Thurrock Core Strategy and Policies for the Management of Development Focussed Review (January 2015).

³ The Town and Country Planning (General Permitted Development) (England) Order 2015.

18. This appeal is not one to remove the condition. Whether or not the condition could be regarded as inflexible to changing circumstances, unreasonable, unnecessary, or lacking clear justification, this appeal garage still requires express permission and that is the development before me. However, based upon the submitted evidence, insofar as it relates to this development, the condition has a clear rationale having regard to Policy PMD6. It does not stop all development taking place but requires that express consent is first obtained from the Council. While beneficial for car, paraphernalia storage and security, the substantive evidence does not lead me to the view the garage is essential for the habitation of the dwelling. These matters carry moderate weight.
19. That the appellant was not made aware of the condition when purchasing the property is unfortunate and that they did not wilfully breach the planning conditions is noted. However, such factors cannot attract weight in favour of allowing this appeal based upon the main issues in this case. I also cannot conclude the appellant has been treated unfairly by the Council's decision.
20. At my visit I noted premises I was referred to off Robinson Road and some detached garages at dwellings on Oxford Road within the Green Belt, such as the Old Chapel, St Benedict's and Hillview permitted historically. I am provided with very little detail of the circumstances of the proposals, or the policies in force at the time of their consent. These were permitted some time ago, predating the TCS and Framework, so I attribute them only moderate weight.
21. The garage is well-designed, does not result in harm to the character and appearance of the area, is of a sufficient size for car parking, retains sufficient parking for, and access to the dwelling. These are neutral matters in the balance. Were I to have taken the view the garage would not result in harmful living conditions to neighbouring occupiers this would also be a neutral matter.

Green Belt Balance and Conclusion

22. Policy PMD6 of the TCS seeks to protect the open character of the Green Belt in accordance with the provisions of the Framework. Paragraph 153 of the Framework explains that substantial weight should be given to any identified harm to the Green Belt.
23. The development is inappropriate development in the Green Belt as defined by Policy PMD6 of the TCS, and effects the openness of the Green Belt. The other considerations set out by the appellant attract moderate weight. However, they do not clearly outweigh the harm identified to the Green Belt, which carries substantial weight, so as to amount to the very special circumstances necessary to justify the development. Therefore, the development conflicts with Policy PMD6 of the TCS, and the Framework, read as a whole.
24. The development is contrary to the development plan read as a whole, and the National Planning Policy Framework, and there are no considerations advanced, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR