



Appeal Decision

Site visit made on 26 March 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/T0355/D/23/3332206

Oak Cottage, Long Lane, Moneyrow Green, Maidenhead SL6 3LF

- 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 Aitchison Raffety against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref is 23/01451.
 - The development proposed is the demolition of existing garage and development of detached barn.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was updated in December 2023, after the appeal was originally submitted. Insofar as is directly relevant to the appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt; and,
 - if the development is inappropriate, whether the harm, by reason of inappropriateness, and any other harm, would clearly be outweighed by other considerations, so as to amount to the 'very special circumstances' required to justify the proposal.

Reasons

Whether inappropriate development

4. Oak Cottage lies in a relatively isolated location within open countryside, accessed from a public right of way running southwest from Forest Green. The house is two storeys, with a separate single storey garage to the north, and a series of other domestic outbuildings to the rear. One of the adjoining fields contains the appellant's beehives.

5. The appeal proposal seeks to demolish the existing garage and replace it with a single storey timber-clad outbuilding which would accommodate storage and a kitchen/workshop for the appellant's honey production, home office, log storage and workshop/storage for the appellant's classic car collection.
6. The essential characteristics of Green Belts are their openness and their permanence, and the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework identifies that inappropriate development is harmful to the Green Belt and should not be approved except in 'very special circumstances'. The construction of new buildings in the Green Belt is inappropriate development. However, paragraph 154 of the Framework sets out several exceptions to this. Policy QP5 of the Borough Local Plan 2022 (BLP) reflects the approach of the Framework.
7. Paragraph 154(d) allows the replacement of a building, providing the new building is in the same use and is not materially larger than the one it replaces. In this regard, the existing garage has a footprint of approximately 42.4 sq m gross external area (GEA). Although it would be built in the same location and for uses in connection with the dwellinghouse, the appeal scheme is significantly larger, at approximately 402 sq m GEA. It is also taller and would have a significantly greater volume. It is therefore materially larger than the building it would replace and would not constitute an exception under paragraph 154(d).
8. I note the existence of a lawful development certificate¹ for an outbuilding in the same location as the appeal scheme comprising an L-shaped building of around 197 sq m GEA, along with two additional outbuildings elsewhere in the garden, each comprising 24 sq m GEA. The L shaped building does not currently exist, and it cannot therefore be replaced. It is not therefore a relevant consideration with regard to paragraph 154(d).
9. The other relevant exception is set out at paragraph 154(c), which allows for the extension or alteration of a building provided that it does not result in a disproportionate addition over and above the size of the original building. In this respect, my attention has been drawn to a court judgment² which indicates that an existing detached domestic outbuilding could potentially be regarded as part of the dwelling and therefore, that an extension to the outbuilding could be regarded as an extension to the dwelling. The judgment also acknowledged that it is a matter of fact and degree in every case.
10. The drawings show a considerable degree of separation between the main house and the garage. I consider that the existing garage is sufficiently distant for it not to be perceived as part of the house, and in any event, given the size of the proposed building is larger than the footprint of the main house I consider it would comprise a disproportionate addition.
11. The proposed development, when judged against the criteria of paragraph 154 of the Framework and Policy QP5 of the BLP, is therefore inappropriate development in the Green Belt.

¹ Reference 20/03477/CPD

² Sevenoaks District Council v SSE and Dawe [1997] EWHC 1012 (Admin)

Openness

12. Openness is an essential characteristic of the Green Belt; it can be perceived both spatially and visually. The proposed outbuilding would have a significantly larger footprint, bulk and height than the existing garage. It would therefore harm spatial openness.
13. However, due to the site's isolated location with very limited public vantage points, I accept that the overall effect on visual openness is somewhat limited. Consequently, whilst the proposal would reduce the existing visual openness, it would be to a limited degree.

Other considerations

14. My attention has been drawn to a court judgment³ which confirms that fallback positions can be taken into account where 'very special circumstances' are required. Two other judgments⁴ have also been brought to my attention which serve to illustrate that a combination of several ordinary factors can result in 'very special circumstances' in the context of proposals within the Green Belt, that relatively ordinary matters can be given significant weight depending on the circumstances of the case and confirming that matters which can constitute 'very special circumstances' are wide ranging.
15. Whilst there are some similarities in terms of location and function, the fallback position established by the certificate scheme is significantly smaller than the appeal proposal both in terms of its footprint and overall floorspace at 245 sq m GEA. It also has a significantly lower volume. Therefore, whilst there would be some benefits from containing the development in one building rather than three separate buildings, the fallback position would have a lesser effect upon the openness of the Green Belt.
16. It is the appellant's view that the appeal proposal itself could qualify as permitted development should the roof form be revised to fall within the appropriate height limits. A lawful development certificate for such a scheme has not been issued. It is not for me, under a Section 78 appeal, to determine whether the use contained within a potential fallback position would qualify as incidental to the enjoyment of the dwellinghouse. It is open to the appellant to apply to the Council for a separate determination under sections 191/192 of the Act regardless of the outcome of the appeal. Given that no certificate has been issued, and there is ambiguity over whether the use would fall within that regarded as incidental, I do not consider that the scenario presented would comprise a realistic fallback position.
17. My attention has been drawn to an appeal decision relating to a certificate of lawful development⁵ for the purposes of illustrating the Inspector's reasoning regarding whether a proposal was incidental to the enjoyment of a dwellinghouse. Given that the matter before me is not a certificate, the appeal decision has limited direct relevance to the main issues I have identified.
18. The appellant's evidence indicates that additional space is required to enable the growth of their honey business. I note the support of the Framework for

³ *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin).

⁴ *Basildon District Council v First Secretary of State and Mrs R Temple* [2004] EWHC 2759 (Admin); *Brentwood Borough Council v SSE* [1996] 72 P&CR 61

⁵ Appeal reference APP/J1860/X/19/3242455

the sustainable growth of all types of businesses in rural areas and in this respect, the proposal would provide a small benefit to the local economy. The appellant's evidence, however, also presents the honey business as a hobby incidental to the enjoyment of the dwellinghouse. Given the residential use of the site, the scale of the business growth would be necessarily limited in planning terms without materially changing the use of the site. Accordingly, I attach limited weight to this benefit.

19. The proposal would also provide a benefit to the appearance of the site through the removal of the existing garage and enabling the car collection to be stored and maintained in one place, along with providing the desired space for the honey production, home office and log store. I attach this moderate weight, although I note that this would also be achieved to some degree by the scheme shown on the lawful development certificate.
20. The appellant indicates their willingness to use permeable grass mesh to incorporate sustainable drainage into the site and integrate the proposed building into its surroundings in a sensitive manner. Given the potential environmental benefits, I afford this benefit moderate weight. The containment of the proposed facilities on site would reduce the need to travel from the appeal site which I consider a small benefit in environmental and socio-economic terms, to which I attach limited weight.
21. The Council do not consider that the proposals would be harmful to the character and appearance of the area, or that any harm would arise to the living conditions of nearby residents or to the highway. The evidence does not lead me to disagree with these conclusions. The absence of harm in these respects is a neutral factor which does not weigh for or against the proposal.

Planning Balance and Conclusion

22. The proposal represents inappropriate development, which by definition, would be harmful to the Green Belt as described in paragraph 152 of the Framework. I have also found that there would be limited harm to openness. In accordance with paragraph 153 of the Framework, I attach substantial weight to the harm to the Green Belt that I have identified.
23. I find that the other considerations put forward by the appellant fall short of clearly outweighing the harm identified and thus the 'very special circumstances' necessary to justify the development do not exist. As such, the proposal would be contrary to the development plan and Framework considered as a whole. The proposal would therefore not constitute a sustainable development and so should be dismissed.

L Francis

INSPECTOR