



Appeal Decision

Site visit made on 19 April 2024

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31.05.2024

Appeal Ref: APP/T0355/D/23/3334089

The Old Vicarage, Bath Road, Littlewick Green, Maidenhead SL6 3QR

- 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 Mr Paul Spencer against the decision of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 23/01359, dated 1 June 2023, was refused by notice dated 10 October 2023.
 - The development proposed is a new double garage.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was submitted a revised version of the National Planning Policy Framework (the Framework) was published on 20 December 2023. It does not involve changes to the national Green Belt policy, and therefore I have not sought the parties' comments upon it. There are however some changes to the paragraph numbers, and in my decision, I refer to the corresponding references of the revised version of the Framework.

Main Issues

3. The main issues are: -
 - i) whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the development plan and the National Planning Policy Framework (the Framework); and
 - ii) the effect of the development on trees.

Reasons

Whether inappropriate development

4. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate unless one of the specified exceptions applies. Policy QP5 of the Borough Local Plan 2013-2033 requires the approach in the Framework to be applied. The Council's position is that ancillary buildings do not fall within any of the exceptions.
5. The garage is a free-standing structure but is to be positioned very close, alongside the house. It is subordinate in scale and limited in height, designed with a double-gabled roof to the front replicating the features and materials of

the host property. The use for the parking of vehicles and storage would be in connection with the property and is the type of domestic structure typically found within residential curtilages. The Council also acknowledge that garages and outbuildings form part of the area's character.

6. Whilst not physically attached to the house, in this case, due to its relationship and the proposed form of development, I consider that it should be regarded as an extension. Such an approach is supported by the case law referenced by the appellant¹ which indicates in relation to the Green Belt exception, that an "extension" should not be interpreted as being confined to physically attached structures.
7. The exception, as set out in Paragraph 154 (c) of the Framework, allows for the extension of a building, provided that it does not result in disproportionate additions over and above the size of the original building. The Council have raised no concerns in this regard, indicating that the proposed development is modest in scale and proportional to the original dwelling. There is no definition of what constitutes a disproportionate addition, and from the figures provided by the appellant, the total increase in floorspace of the proposed garage together with an existing pool house would be approximately 36%. Additionally, as a single-storey structure it would not add significant bulk to the property, which is substantial.
8. On this basis, I do not find the garage would be a disproportionate addition. I therefore conclude that the proposed development would not comprise inappropriate development within the Green Belt as defined by the Framework and in the development plan.

Trees

9. Positioned at the end of the existing driveway the siting of the proposed garage is surrounded by several trees. These trees positively contribute to the verdant character of the area and are protected by reason of the site being located within the Littlewick Green Conservation Area.
10. Immediately to the east of the proposed garage, and close to the site boundary, is a significant Copper Beech tree (T6). The mature tree has a large trunk diameter with a number of branches low to the ground. The majority of the garage would be sited within its root protection area (RPA) and there would also be incursion into the RPAs of a Beech Tree (T7) and a Yew (T8) to the rear of the proposed garage.
11. Whilst the supporting information indicates that no-dig methods and a "tree safe" foundation system are to be used, further site-specific assessment is identified as necessary to derive a suitable foundation design. Given the substantial extent of the intrusion into the RPAs, particularly T6, there is significant potential for damage to or loss of those trees. The details provided are not sufficient to afford certainty that adverse effects on the trees could be avoided or mitigated appropriately. Without this information, it is not possible to determine whether any harm would arise to the character and appearance of the area.

¹ Warwick District Council v Secretary of State for Levelling Up, Housing and Communities [2022] EWHC 2145 (Admin) (12 August 2022)

12. The appellant suggests that a garage could be constructed under permitted development rights, and I acknowledge that the construction methods could not be controlled in that scenario. However, under those provisions, the garage would not be in the same location and sited further back, in the position shown in the appellant's appeal statement, would appear to require the removal of T7. Any work to the trees will require an application to the Council. There is no specific scheme before me (i.e. a lawful development certificate) nor consent for the tree works, and therefore I cannot agree with the appellant that such works should be deemed acceptable and that the Council have already or would not consider a Tree Preservation Order if tree works were proposed. Accordingly, this is not a matter to which I have given weight as a fallback.
13. The driveway to the side of the house is quite large, and there is nothing to suggest that a garage could not be sited differently, or the size/form altered to limit the interference with the RPAs. Moreover, there is no overriding justification for construction within the RPAs. In line with British Standard 5837 the default should be that structures are located outside the RPAs, and particular care is needed with regard to the retention of mature trees.
14. A precautionary approach towards tree protection should be adopted and I am not persuaded, from the information before me, that the proposed development would not result in harm to the existing trees which have amenity value to the appeal site and the Conservation Area. The proposal is therefore contrary to policy NR 3 of the Borough Local Plan 2013-2033 which seeks to protect trees and requires that development is sensitive to, and makes provision for, the needs of protected species and that tree surveys, tree constraints and tree protection plans comply with BS5837.

Conclusion

15. Whilst I have found that the garage would not constitute inappropriate development in the Green Belt it has not been demonstrated that the siting and construction of the development would not be harmful to the trees. The appeal is therefore dismissed.

G Ellis

INSPECTOR