



Appeal Decision

Site visit made on 28 January 2025

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th February 2025

Appeal Ref: APP/P1940/D/24/3352313

Sanam, Troutstream Way, Loudwater, Hertfordshire WD3 4LA

- 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 Raju Radia against the decision of Three Rivers District Council.
 - The application Ref is 24/0575/FUL.
 - The development proposed is installation of a pre-fabricated outbuilding.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the appeal proposal on the openness of the Green Belt; and
 - 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 proposal.

Reasons

Inappropriate development

3. The appeal site is located within the Green Belt. The Framework, at paragraph 154, indicates that development in the Green Belt is inappropriate unless one of the identified exceptions apply.
4. Contrary to the position of the appellant, the Council considers that the siting of the proposal would be outside of the residential curtilage of the host dwelling and would, therefore, constitute inappropriate development in the Green Belt. There is no all-encompassing, authoritative definition of the term 'curtilage'. In the case¹ referred to by the appellant it was found that the ground used for the comfortable enjoyment of a house or other building may be regarded as being within the curtilage and an integral part of the same. It is enough that it serves the purpose of the house or building in some necessary or reasonably useful way. Other case law has established that interpretation of the word curtilage is a matter of fact and

¹ *Sinclair-Lockhart's Trustees v Central Land Board* [1950] 1 p&cr 195

degree for the decision maker, and that for land to fall within the curtilage of a building, it must be intimately associated with it to support the conclusion that it forms part and parcel of that building.

5. The proposed building would be on land which is part of the same enclosure with the house. It is lawned and contains ornamental planting consistent with the treatment of the land directly adjoining the dwelling house, and its use appears to be not materially different to it. Whilst the land is separated from the dwelling by a narrow branch of the River Chess, it is easily accessible from its front door. Furthermore, with the other land within the enclosure it forms a not overly large plot size which is proportionate to the size of the dwelling.
6. There is no compelling evidence that the land upon which the proposed building would be located has been used in the past for purposes that are not associated with the comfortable enjoyment of the house. Having regard to this, and to the physical layout of the house and its grounds as described above, it is reasonable to consider that the appeal site is on land that is within the curtilage of the dwelling. Accordingly, the proposal should be viewed as a curtilage building.
7. The appellant suggests that the proposed development is not inappropriate in the Green Belt as it falls within the exception set out at paragraph 154b) of the Framework, the appropriate facilities (in connection with the existing use of land or a change of use), including buildings, for outdoor recreation, as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. However, as the proposal is associated with a residential use of land it does not fall within this exception.
8. The appellant has also suggested that the proposal should be treated as an extension to the dwelling and considered against the exception at paragraph 154c) of the Framework. This sets out that the extension or alteration of a building is not inappropriate if it does not result in disproportionate additions over and above the size of the original building. An appeal decision regarding 22 Denham Way, Denham has been provided in support of this position.
9. As noted in the Denham Way decision, in certain circumstances a detached outbuilding could be regarded as a normal domestic adjunct, capable of being treated as an extension. However, in this case the building would be a considerable distance from the dwelling, more than double the separation distance in the Denham Way case, on land separated from it by the river. In view of such factors, and notwithstanding the limited scale and mass of the proposed building and that it is on land within the curtilage of the dwelling, I find as a matter of fact and degree that it cannot be regarded as an extension to the house. The proposal could not, therefore, fall within the paragraph 154c) exception.
10. Accordingly, the appeal proposal is inappropriate development in the Green Belt. It would, therefore, conflict with Policy CP11 of the Core Strategy and Policy DM2 of the Development Management Policies Local Development Document (LDD) insofar as they set out a general presumption against inappropriate development in the Green Belt and indicate that new buildings in the Green Belt will be assessed in accordance with the Framework.

Openness

11. The Framework, at paragraph 142, identifies the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.
12. The appeal building would be contained within a plot defined by mature landscaping and as such there would be limited, if any, views of it from outside the site. Nonetheless, the introduction of built form where there is currently none, would result in a modest loss of openness of the Green Belt, irrespective of whether, or not, the site falls within the definition of previously developed land as set out in Annex 2 of the Framework.

Other considerations

13. The appellant has highlighted that permitted development (PD) rights for outbuildings are not affected by the Green Belt and that outbuildings are, therefore, not considered to be inherently unacceptable in such locations. However, the existence of permitted development rights that could be utilised on the appeal site has not been clearly defined. Thus, I cannot be certain that a comparable development to the appeal proposal could be brought forward under PD rights should planning permission be refused. Consequently, this does not weigh in favour of the appeal proposal.
14. I acknowledge that the proposal would accord with the criteria set out in LDD Policy DM2 as to when the Council will support the provision of ancillary buildings in the Green Belt. Nonetheless, it remains that the proposal is inappropriate development and, therefore, conflicts with local and national policy.

Green Belt balance

15. Paragraph 152 of the Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 of the Framework advises that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless that harm, and any other harm, are clearly outweighed by other considerations.
16. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. I have also found harm, albeit limited, to its openness.
17. No other considerations have been identified that would clearly outweigh the harm to the Green Belt I have found, either individually or collectively, so as to amount to the very special circumstances necessary to justify the development.

Other Matters

18. The appeal site lies within the Loudwater Conservation Area (LCA) and close to the boundary of the Outer Loudwater Conservation Area (OLCA). Characteristic of the LCA and OLCA are large, detached dwellings within spacious plots. The mature trees, hedgerow and other planting within the plots are notable features of both conservation areas and contribute to their verdant, spacious and pleasant quality.

19. The modest scale of the proposed building in a position that would not be prominent in views or lead to the loss of existing landscape features would ensure that it would preserve the character and appearance of the LCA and the setting of the OLCA. For that reason, I agree with the Council that the development would not lead to harm to, or loss of, the significance of the LCA or OLCA as designated heritage assets.

Conclusion

20. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
21. For the reasons given above the appeal is dismissed.

Elaine Moulton

INSPECTOR