



Appeal Decision

Site visit made on 3 February 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2025

Appeal Ref: APP/H2265/D/24/3349338

Camomile House, Common Road, Ightham, Sevenoaks, Kent TN15 9DY

- 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 & Mrs Langman against the decision of Tonbridge and Malling Borough Council.
 - The application Ref is TM/23/03072.
 - The development proposed is a replacement outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for a replacement outbuilding at Camomile House, Common Road, Ightham, Sevenoaks, Kent TN15 9DY in accordance with the terms of the application, Ref TM/23/03072, subject to the conditions in the attached Schedule.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application form.
3. The revised National Planning Policy Framework (the Framework) was published in December 2024. The revised Framework is a material consideration which should be taken into account from the day of publication. Having considered the revisions and in light of the principles of natural justice, the parties have been provided with an opportunity to comment on the revised Framework.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the Framework; and
 - if it is inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development

5. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
6. The appeal site is set back from Common Road and is accessed via a narrow track. The site comprises a detached dwelling with a single-storey outbuilding positioned towards the side boundary. The proposal is for a replacement part single-storey, part two-storey outbuilding. The replacement building would include a gym, garage and storage area with a first-floor yoga studio.
7. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 2007 (CS) establishes the extent of the Green Belt and states that National Green Belt policy will be applied. Paragraph 154 of the Framework regards the construction of new buildings as inappropriate in the Green Belt. An exception to this is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The Framework does not define a specific threshold to assess whether a proposal is materially larger.
8. The parties agree that the new building would be in the same use as the one it would replace and would have a smaller footprint and volume. The difference in height between the proposed replacement building and the existing building would be limited. However, the new building would have a lower ground level than the existing building, and the actual difference in height between the existing and proposed buildings would be substantial. Furthermore, the proposal would result in a 38% increase in floor area. Taken together, the new building would be materially larger than the one it would replace.
9. Another exception includes the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt. Previously developed land is defined in Annex 2 of the Framework as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure'. The definition excludes land in built-up areas such as residential gardens.
10. The site includes a detached dwelling and its associated garden, in addition to the existing outbuilding. The site is in an area of dispersed development, set back from Common Road without a coherent built-up character. Moreover, the Council identify the site as being outside the confines of Ightham. Accordingly, as the land is occupied by a permanent structure and the site does not fall within the exclusions set out in the Framework, the proposal would be on previously developed land.
11. The site is visually contained by the mature trees and planting to the front and side boundaries. The building would be glimpsed from the access track through the entrance to the site. Nevertheless, given the level of screening from the landscaping and the position of the proposal on the footprint of the existing

building, the visual effect of the development would be minimal. Consequently, the proposal would result in only limited harm to the visual openness of the Green Belt. In addition, due to the overall reduction in the volume of built form, the proposal would lead to an increase in the spatial openness of the Green Belt.

12. The proposal would not cause substantial harm to the openness of the Green Belt. Moreover, the limited effects would not be of such a magnitude that the proposal would conflict with any of the five purposes of including land in the Green Belt, as set out in Paragraph 143 of the Framework.
13. Therefore, the proposed development is not inappropriate development, as per Paragraph 154 g) of the Framework. Consequently, very special circumstances do not need to be demonstrated for the proposal to be considered acceptable in Green Belt terms. The proposal accords with Policy CP3 of the CS as set out above and the Framework, which seeks to protect the Green Belt from harm.

Other Matter

14. The site is within the National Landscape. Paragraph 189 of the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty in the NL. I am also mindful of the statutory purpose of NLs to conserve and enhance the natural beauty of the area. The Council consider that the proposal is of a design and scale that would conserve landscape and scenic beauty in the NL, and I see no reason to disagree.

Conditions

15. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.
16. The quality of the environment would be protected by conditions in respect of soft landscaping, including the protection of existing trees at the site. A condition is also included to ensure that the proposed building is used only in association with the residential use of the main dwelling.
17. The Council has also suggested a condition that would remove permitted development rights for extensions and alterations to the dwelling and in respect of development in the curtilage of the dwelling. The Framework advises that conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Town and Country Planning (General Permitted Development) (England) Order 2015 does not remove permitted development rights in the Green Belt. Given the limitations in terms of size and position of development permitted, I am not persuaded that the site circumstances are such, to justify the removal of these permitted development rights.

Conclusion

18. For the reasons given above the appeal should be allowed.

J Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: Site Location Plan, SP1419-23-PL01, SP1419-23-PL03, SP1419-23-PL04_A, and SP1419-23-PL05_A.
- 3) No development shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 4) No development shall commence until precise details of the location, extent and depth of all excavations for services (including but not limited to electricity, gas, water, drainage and telecommunications) in relation to trees on and adjacent to the site have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 5) The outbuilding hereby permitted shall not be used other than for purposes ancillary to the enjoyment of the main dwellinghouse namely Camomile House, Common Road, Ightham.

End of Schedule