



Appeal Decision

Site visit made on 3 February 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/H2265/D/24/3350904

Stone Acre, Copt Hall Road, Ightham, Sevenoaks, Kent TN15 9DT

- 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 Mrs Kathryn James against the decision of Tonbridge and Malling Borough Council.
 - The application Ref is TM/23/00680/FL.
 - The development proposed is the demolition of garage, partial demolition of dwelling and erection of replacement garage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of garage, partial demolition of dwelling and erection of replacement garage at Stone Acre, Copt Hall Road, Ightham, Sevenoaks, Kent TN15 9DT in accordance with the terms of the application, Ref TM/23/00680/FL, subject to the following 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 Plan, 3A, 4, 5, 6, 7, 8, 9 and 10.
 - 3) The external materials of the extension hereby permitted shall match those used in the existing dwelling.
 - 4) Prior to first use of the development hereby permitted, the existing garage and part of the dwelling as shown on drawing number 8 shall be demolished.

Preliminary Matters

2. The description of development in the banner heading and my formal decision has been taken from the decision notice. While neither of the main parties has provided written confirmation that a revised description of development has been agreed, I have taken the description from the decision notice as this is more precise. I do not consider that this has prejudiced any of the parties and I have proceeded on this basis.
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;
- the effect of the proposal on the openness of the Green Belt; 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 comprises two dwellings, which are set back from Copt Hall Road and are accessed via a narrow track. The dwellings comprise the original dwelling and a larger new dwelling, which was proposed as a replacement to the original dwelling and garage. Nevertheless, the planning permission¹ for the replacement dwelling did not include a condition requiring the demolition of the existing buildings. The proposal is for a detached garage following the demolition of the existing garage and part of the original dwelling.
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 states that development in the Green Belt is inappropriate. 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 parties agree that the new building would be in the same use as the one it would replace.
8. The proposed garage would have a larger footprint, volume and height than the building it would replace. Nevertheless, the proposal includes the demolition of part of the original dwelling, which is proximate to the existing garage. Taking the findings of the judgment² referred to by the appellant into account, given that the element of the dwelling is domestic in scale and use, and not widely dispersed around the appeal site, the dimensions of the part of the dwelling would be appropriate to be included within the quantum of development.
9. The proposal would result in a reduction in the floorspace when combining that of the existing garage and the part of the dwelling to be demolished. While the new building would have a lower height than the part of the original dwelling that would be removed, it would be considerably higher than the existing garage. Moreover, there is no substantive evidence before me to demonstrate the difference in volume between the existing buildings and the proposed garage. Consequently, while there would be a reduction in floorspace, I cannot be certain that the

¹ TM/20/01031/FL, dated 17 July 2020

² Tandridge DC v SSCLG & Syrett [2015] EWHC 2503

proposal would not be materially larger than the quantum of development it would replace.

10. 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.
11. The site includes two detached dwellings, the existing garage and the associated garden. The site is set back from Common Road and Copt Hall Road where development has typically linear pattern. The Council has previously considered, within the Officer Delegated Report for application reference TM/20/01031/FL, that the site is outside of the designated settlement confines and, given its detachment from the development at Common Road and Copt Hall Road, does not form part of a built-up area. 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.
12. The building would be glimpsed from Copt Hall Road through the access to the site. Nevertheless, given the presence of intervening features, and the position of the proposal primarily on the footprint of the existing building, the visual effect of the development would be negligible. Consequently, the proposal would result in only limited harm to the visual openness of the Green Belt. The proposed garage would be larger than the existing building. However, the removal of the existing garage and the partial demolition of the original dwelling would restrict the harm to the spatial openness of the Green Belt.
13. Therefore, given the limited harm to the visual and spatial openness, 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.
14. I conclude that, the proposal 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

15. 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. Section 245 of the Levelling-up and Regeneration Act 2023 places a duty upon me to seek to further the statutory purposes of NLs, which is to conserve and enhance the natural beauty of the area of outstanding natural beauty. The Council consider that the garage is of a design and scale that would conserve landscape and scenic beauty in the NL, and I see no reason to disagree.

Conditions

16. 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.
17. In order to protect the character and appearance of the area, I have also imposed a condition requiring the external materials used in the construction of the garage to match those of the existing, new dwelling. A condition is also included requiring the demolition of the existing garage and part of the dwelling in order to protect the Green Belt from harm.

Conclusion

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

J Pearce

INSPECTOR