

APPEAL BY MR P CARNALL AGAINST THE DECISION OF THE BOROUGH COUNCIL TO REFUSE PLANNING PERMISSION FOR THE ERECTION OF AN EXTENSION AND REFURBISHMENT TO EXISTING DWELLING INCLUDING THE DEMOLITION OF EXISTING GARAGE AND ERECTION OF THE PROPOSED NEW CARPORT AT LOWER MILL HOUSE, FURNACE LANE, MADELEY.

Application Number 16/00489/FUL

LPA's Decision Refused by delegated powers on 15 August 2016

Appeal Decision Dismissed

Date of Appeal Decision 11 January 2017

The Inspector found that the main issues were;

- whether the proposal is inappropriate development in the Green Belt;
- the effect of the development sought on the openness of the Green Belt and the purposes for including land within it; and
- if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

In dismissing the appeal, the Inspector made the following comments:

- The Council has queried whether the basement of the building should be included in the calculations of the volume of the original building because it is subterranean and thus has little effect on the openness of the Green Belt. However, the Framework and the development plan policies make no such distinction and therefore the basement should be included as part of the building for the purpose of assessing its size.
- Adding both the existing and proposed extensions would, according to the appellant, amount to an increase of 68% in the volume of the original building based on the appeal evidence. An increase of this magnitude would significantly and disproportionately enlarge the original building.
- The appellant considers that other considerations should be taken into account in the assessment such as design and the effect of development on openness, visual amenity and Green Belt purposes. However, the test of proportionality, as it is expressed in national policy, is confined to whether or not the sum total of any existing and proposed extensions to the original building would be disproportionate. It is therefore essentially a numerical exercise that compares the size of the completed building, as proposed, with the original building.
- The detached garage situated towards the site's main entrance is also proposed to be demolished and removed with a new carport with a storage room above introduced closer to the main house. Based on the appellant's figures, the carport would be more than double the height of the garage to be replaced and occupy a significantly enlarged footprint. On that basis, the new carport would be materially larger than the garage to be replaced.
- On the first issue therefore, it is concluded that the appeal scheme is inappropriate development that is, by definition, harmful to the Green Belt.
- Openness is one of the essential characteristics of the Green Belt which generally means the absence of buildings or development and is epitomised by a lack of buildings. By introducing additional built form, as proposed, the openness of the Green Belt would be reduced. That reduction would be significant in this case as the finished dwelling would be much larger than the existing building, as would be the new carport compared to the garage to be replaced. Although the proposed carport would be partly open at ground floor level, it would be a permanent structure and would present a largely solid feature even if a vehicle did not occupy part of it. Consequently, the proposed design would not fully compensate for the loss of openness that would result from the introduction of a larger building than the one to be replaced.
- The proposal would materially erode the openness of the Green Belt, in conflict with the Framework.

- The Framework makes clear that substantial weight is given to any harm to the Green Belt and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
- The appellant has referred to a potential fallback option in which various built additions could be made to the existing dwelling as permitted development (PD), which he states would not require planning permission.
- However, the Inspector was not persuaded on the evidence before him that there is a realistic prospect of all of the elements of the PD scheme outlined by the appellant being implemented. Specifically, there is insufficient evidence to clearly demonstrate that all of the works indicated by the appellant would be covered by PD rights. The Council raises concern that elements of the scheme may not qualify as PD and the Inspector shared that opinion. A lawful development certificate for those works could provide greater certainty as it is a legally binding decision, on application or appeal.
- The development would result in a larger house with additional living accommodation and a new carport with storage that would enhance the living conditions of the appellant and his family and relatives. The finished dwelling would better suit the needs of the appellant, who is the Managing Director of a local business employing a significant number of people with plans for further expansion. However, there is nothing to demonstrate that these benefits and needs could only be met in the manner proposed. Therefore, only modest weight is attached to this consideration.
- Overall, the harm caused by the inappropriateness of the development, its effect on openness, and the conflict with the Framework and a development plan policy, carry substantial weight. The development would not conflict with the purposes for including land within the Green Belt, which neither weighs for or against the scheme. The other considerations carry only up to moderate weight in support of the appeal.
- On balance, there are no considerations sufficient to clearly outweigh the harm to the Green Belt and so there are no very special circumstances to justify the development. Accordingly, the appeal is dismissed.

Recommendation

That the decision be noted.