



## Appeal Decision

Site visit made on 22 August 2022

**by A Caines BSc (Hons) MSc TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 August 2022**

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**Appeal Ref: APP/H4505/D/22/3301860**

**Gavna, Westfield Lane, Ryton Central, Ryton NE40 3QE**

- 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 Miss Ellie McParlin against the decision of Gateshead Metropolitan Borough Council.
  - The application Ref DC/21/00897/HHA, dated 14 July 2021, was refused by notice dated 20 May 2022.
  - The development proposed is erection of 1.5 storey detached garage with office/gym in roof space.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposal was amended during the application process and the appeal was made with the amended plans. I have determined the appeal on that basis.

### Main Issues

3. As the appeal site is located within the Green Belt, the main issues are:
  - Whether the proposal amounts to inappropriate development in the Green Belt;
  - The effect on the openness of the Green Belt;
  - The effect on trees;
  - Whether the development would preserve or enhance the character or appearance of the Ryton Conservation Area; and
  - If the proposal is inappropriate development, whether 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 proposal.

### Reasons

*Whether inappropriate development*

4. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless it falls within a number of listed exceptions. Policy CS19 of the Core Strategy and Urban Core Plan for

Gateshead and Newcastle upon Tyne 2010 – 2030 (2015) (the CS) identifies that the Green Belt will be protected in accordance with national policy.

5. It is the view of the Council that the proposal, as a new detached building, does not fall within any of the Framework exceptions, and on that basis, represents inappropriate development. However, case law has established that an outbuilding may be considered as an extension to the house even when it is not physically connected. Indeed, this was the approach followed by the Inspector in the Bracknell Forest decision put before me by the appellant.
6. In this case, the proposal would be related functionally, and have a close physical and visual relationship with the existing house. It is therefore logical and appropriate that the proposal should be assessed against paragraph 149 c) of the Framework, which provides for the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
7. The Framework defines an original building as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. However, it does not specify what might be considered a disproportionate addition over and above the size of the original building. There is some assistance from the Council's Household Alterations and Extensions Supplementary Planning Document (2011) (the SPD), which advises that once a property has been extended by more than one third of its original volume, any further increase in volume will likely have an adverse effect on the Green Belt. It is nevertheless important to take into account the precise nature of the site and the proposal. This is ultimately a matter of planning judgement for the decision maker.
8. According to the appellant's figures, the proposal would, together with previous extensions, amount to an increase of around 35% of the original building's volume. As such, the proposal exceeds the threshold referred to in the SPD, albeit not greatly. However, even putting aside a purely numerical assessment, the proposal would, though its length, width, height, and proximity, add significant bulk and massing at the front of the house. Together with previous extension, the original plan form and core shape of the building would be fundamentally altered. Thus, in considering the overall increase in the size of the original building reasonably and objectively, and with reference to the specific context of the site, the proposal would, in my judgement, result in a disproportionate addition.
9. I note the appellant's suggestion that the proposal does not conflict with the purposes of the Green Belt. However, an assessment of the proposal against the five purposes of the Green Belt is not a matter that affects the consideration as to whether it is inappropriate or not.
10. Accordingly, I find that the proposal is inappropriate development in the Green Belt, which is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.

### *Openness*

11. The essential characteristics of Green Belts are their openness and permanence. Openness has generally been held to be the absence of development and it has both a spatial and visual aspect.

12. The proposal would bring built development forward of the front of the house and close to the road, where presently none exists. Whilst the screening currently provided by the roadside vegetation may help to reduce the visual impact on openness, it would not remove it. There would be glimpsed views of the development from the east and down the driveway. It would also have more visibility during the winter months when the deciduous trees at the front of the site are not in leaf. Moreover, despite the protection afforded by the conservation area designation, this vegetation could still be reduced in height through normal maintenance, or even die, so it is not a factor which could be permanently relied on to screen the development.
13. In addition, the erosion of three-dimensional space arising from the physical presence of the development would, in itself, unavoidably result in a reduction of the spatial openness of the site, regardless of any views. Consequently, the development would result in this part of the Green Belt being less open than it is at present, both spatially and visually.
14. Therefore, and on consideration of the scale of the development, I conclude that there would be moderate harm to Green Belt openness, which is in addition to the harm arising from inappropriateness.

#### *Trees*

15. There are a number of trees within influence of the development. These include two Cherry trees located within the front garden (identified as T1 and T2 in the appellant's Arboricultural Implications Assessment) and a Sweet Chestnut along the front boundary (T3 in the AIA).
16. The Council has not objected to the removal of Trees T1 and T2, which have been identified as having low retention value and could be replaced elsewhere within the site. However, Tree T3 is a very large and prominent category A specimen, which the appellant acknowledges is a 'Veteran Tree'. The AIA does not propose removal of Tree T3 and the revised Site Plan provides for an amendment to the position of the proposed building. However, it remains the case that the building would be constructed within the root protection area (RPA) of this tree.
17. Whilst various special construction techniques and protection measures have been proposed, albeit with little detail, the default position of BS 5837:2012 is that structures should be located outside of RPAs, and only where there is an overriding justification for construction within the RPA should technical solutions be considered to prevent root damage. I have not been provided with such an overriding justification for the development to be taken into the RPA. Nor is there any specific, technical information to demonstrate that such works, even if undertaken carefully, would not cause significant disturbance and damage to the sensitive rooting environment around this veteran tree.
18. In any event, the development is contrary to the Government's Planning Practice Guidance and The Natural England/Forestry Commission Standing Advice for veteran trees, which requires a buffer zone of at least 15 times larger than the diameter of the tree to create a minimum RPA, and that development within the buffer zone should not be approved.

19. The need for pruning of overhanging branches to maintain clearance to the building is yet further indication of the unacceptably close relationship of the development to the veteran tree.
20. Therefore, notwithstanding the technical construction solutions suggested, and the subsequent supporting information provided, I consider that the construction of the development so close to the veteran tree and within its RPA would be unacceptable, and would risk the long-term health and survival prospects of the tree. Given the nature of the development, there are no exceptional public benefits to clearly outweigh this harm. As such, the proposal conflicts with Policy MSGP36 of the Making Spaces for Growing Places Local Plan Document for Gateshead (2021) (the LPD). There is also conflict with Paragraph 180 c) of the Framework which advises that development resulting in the loss or deterioration of irreplaceable habitats (such as veteran trees) should be refused, unless there are wholly exceptional reasons. Footnote 63 indicates types of exceptional examples, which the proposal is clearly not.

#### *Ryton Conservation Area*

21. The appeal site lies within the Ryton Conservation Area (RCA). It is the last of a short row of more modern houses on the south side of Westfield Lane. To the north is the Tyneside Golf Club and to the west are open fields. Whilst the houses vary in size and appearance, they are set back from the road by a similar amount in spacious plots with mature planting. As a result, the appeal site and its surroundings have a spacious and verdant character, which also contributes positively to the essential character of this part of the RCA and its significance as a whole.
22. The proposed building could be constructed in materials to closely match the existing house and would maintain a degree of visual subservience due to its lower height. I also note that the scheme was amended to remove an external staircase. Nonetheless, garages placed forward of the front elevation are not a characteristic feature of the houses in Westfield Lane which maintain spacious open frontages. In this context, and having regard to its size and proximity to the road, the development would be incongruous. In addition, its gabled roof design and dormer windows would, in my view, add further to the incongruousness of the development given such features are not part of the existing house.
23. I have already set out in relation to the Green Belt that the vegetation along the roadside boundary would not completely remove the visual impact of the development. In any case, the requirement for development proposals to preserve or enhance the character or appearance of the RCA applies irrespective of whether development is prominent, or in public view. The erosion of the spacious character at the front of the site would harmfully diminish the site's positive contribution to the character and appearance of the RCA.
24. I have also found that the development would risk the long-term health and survival prospects of a veteran tree at the front of the site (Tree T3), which due to its size and prominence, currently makes a significant positive contribution to the character and appearance of the RCA in its own right. There would be further harm to the character and appearance of the RCA in this regard.

25. Given the above, the development would not preserve or enhance the character or appearance of the RCA, and thus would cause harm to its significance. Whilst the degree of harm would be classed as 'less than substantial' this does not equate to a less than substantial planning objection, especially where the statutory test is not met. Furthermore, heritage assets are irreplaceable and great weight should be given to their conservation. Having regard to paragraph 202 of the Framework, there are no public benefits in this case that would outweigh the harm to the significance of the RCA. Thus, the proposal conflicts with Policy CS15 of the CS, and Policies MSGP24 and MSGP25 of the LPD, which collectively seek good design that is compatible with local character, and the conservation and enhancement of the historic environment. The proposal also conflicts with the SPD in this regard. For the same reasons, it does not accord with the design and heritage protection objectives of the Framework.

*Whether very special circumstances exist*

26. For the reasons stated, I consider that the proposal would be inappropriate development, and would also result in moderate harm to Green Belt openness. Furthermore, it would cause harm to the significance of the RCA and a veteran tree contrary to statutory requirements and Policies CS15 of the CS, as well as Policies MSGP24, MSGP25 and MSGP36 of the LPD. These matters attract substantial weight.

27. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and other harm. Therefore, the very special circumstances necessary to justify the proposal do not exist. The proposal therefore also conflicts with Policy CS19 of the CS which seeks to protect the Green Belt.

**Conclusion**

28. The proposal conflicts with the development plan as a whole and there are no other considerations, including the Framework, to indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*A Caines*

INSPECTOR