

| Name of Applicant Type of Certificate | Proposal | Map/Plan Policy | Plan Ref. Expiry Date |
|--|--|--------------------|---------------------------------|
| Mr. C. Woodwiss 'A' | Construction of detached garage - Foxhill House, Foxhill Lane, Alvechurch, B48 7BY | GB LPA | 11/0199-SC 13.05.2011 |

RECOMMENDATION: that permission be **REFUSED**.

Councillor G. N. Denaro has requested that this application be considered by the Committee, rather than being determined under delegated powers.

Consultations

| | |
|------------------------------|--|
| WH | Consulted - view received 01.04.2010. No objection. |
| Tree Officer | Consulted - no response received as yet. |
| Central Networks | Consulted - no response received as yet. |
| WCC (Minerals and Waste) | Consulted - no response received as yet. |
| Alvechurch Parish Council | Consulted - no response received as yet. |
| Publicity | 1 site notice posted 25.03.2011 (expires 16.04.2011). No response received. |

The site and its surroundings

The application site lies to the east but is set back from east side of Foxhill Lane. It is accessed via a driveway surfaced in gravel. The driveway continues into the site and widens before leading to a two storey building. Originally constructed for agricultural storage, the building was last used as a helicopter hangar. Under application 09/0875, permission was granted for the change of use of the building to a 4 bedroom dwelling. Work has commenced on this consent but is not yet complete.

To the south east corner of the site and to the rear of the building are areas of hardcore. The remainder of the site is grassed. To the south and west, the site adjoins open fields and to the north a paddock and tennis court within the ownership of the applicant. The boundaries are marked by post and wire fences. To the rear / east boundary, an established hedgerow and trees forms the boundary with open countryside sloping down away from the site. The ground level to the application site is marginally higher than that of the road. The site is visible from the road at the access point but is otherwise screened by the roadside hedge.

The former agricultural building is located approximately 70m to a group of buildings comprising of Foxhill House and Foxhill Barns (a traditional former agricultural building now converted to a number of dwellings) and their associated garages. The property is located in a recognised area of Green Belt and a Landscape Protection Area.

Proposal

This application proposes a large detached garage located towards the south east corner of the site. The proposed garage's dimensions measure 8.24m (W) x 6.4m (D) x 4.8m (H). The southern roof slope is to be covered with solar panels.

Relevant Policies

WCSP SD.2, CTC.1, CTC.5, D.16, D.38, D.39
BDLP DS1, DS2, DS9, DS13, C4, C17, C27, C27C, ES11
Draft CS CP3, CP14
Others PPS1, PPG2, PPS22, SPG4, Alvechurch Village Design Statement

Relevant Planning History

10/1047 Proposed double garage. Withdrawn 11.01.2011.
10/0547 Proposed detached building for garaging, car port and woodstore. Refused 08.09.2010.
09/0875 Conversion of existing redundant helicopter hangar into single dwelling (as augmented by survey received 03.02.2010 and letter received 26.01.2010 and amended by plans received 25.01.2010). Approved 09.02.2010.
B/2006/1288 Change of use - redundant helicopter hangar to 1 No. residential unit. Refused 07.02.2007.
B/2000/1091 Retrospective application for part change of use of agricultural storage building for storage of helicopter. Approved 18.12.2000.
B/1998/0875 Agricultural storage building (notification). Approved 11.11.1998.
B/1998/0766 Agricultural storage building (notification). Refused 01.10.1998.

Notes

This application is the second revision of a previously refused application considered at Planning Committee, reference 10/0547, refused 08/09/2010. The refusal reasons given in relation to the original garage application (10/0547) are outlined below:

1. The proposed detached building represents inappropriate development in the Green Belt and inappropriate development is, by definition, harmful. The position of the development away from the existing building on site is a form of encroachment into the countryside and therefore conflicts with the purposes of including land in the Green Belt. In addition, the building would unduly harm the openness of the Green Belt. The proposal is therefore considered contrary to policy DS2 of the Bromsgrove District Local Plan 2004, policies D.38 and D.39 of the Worcestershire County Structure Plan 2001 and the provisions of Planning Policy Guidance 2: Green Belts. No very special circumstances exist that would outweigh the harm that would be caused.
2. The proposed detached building, by reason of its size, design and siting would be detrimental to the character and amenities of the locality and would have a

negative impact on the Landscape Protection Area. The proposal is therefore found contrary to policies DS9, DS13 and C4 of the Bromsgrove District Local Plan 2004, policy CTC.1 and D.16 of the Worcestershire Local Plan.

In comparison to the previously refused scheme (10/0547), the key scale differences in (approximate) measurements are shown in the table below.

| | 10/0547 | 11/0199 | Difference |
|--------|----------------|----------------|----------------------|
| Width | 14m | 8.24m | 5.76m smaller |
| Depth | 6.4m | 6.4m | 0m |
| Height | 6.4m | 4.8m | 1.6m smaller |

Table 1 - Comparison of the scale of the current application to that previously refused.

The current proposals represent a substantial reduction in scale to the application previously refused at Planning Committee.

In addition to this substantial reduction in external dimensions, Members will note that in comparison to the original application (10/0547), the proposed wood store and carport have been removed in entirety and that the proposed designs do not accommodate any floor space at first floor level. Additionally, the two first floor level dormer windows and the external entry to the first floor have been removed. This has resulted in a structure that is significantly less domestic in appearance and functionality than the scheme previously refused by Committee.

It should be noted that regardless of the current proposal's size in relation to the earlier refused scheme, the proposed garage remains a large outbuilding located in an isolated countryside, Green Belt location. The proportionate reduction in scale of the current building in relation to the earlier refused scheme carries little weight and is not, of itself, a justification, in planning terms, for what may otherwise be considered inappropriate development.

Assessment

The main issue with this application is whether the proposed development in an appropriate form of development in the Green Belt and, if not, whether very special circumstances exist to outweigh the level of harm caused. Consideration will also be given to the visual impact of the proposal and the amenities of adjoining occupiers.

Green Belt

Policy D.39 of the Worcestershire County Structure Plan and policy DS2 of the Bromsgrove District Local Plan 2004 are in general accordance with advice given under PPG2: Green Belts in stating that inappropriate development in the Green Belt will not be allowed unless very special circumstances exist to outweigh the harm caused. Policy DS2 reflects PPG2 in setting out the instances where development in the Green Belt may be considered appropriate. No provision is made under this policy for domestic outbuildings or for hardstanding. As such, the proposed development is an inappropriate form of development in the Green Belt. PPG2 (paragraph 3.2) states that "Inappropriate development is, by definition, harmful to the Green Belt"

Paragraph 1.5 of PPG2 lists the five purposes of including land within the Green Belt including "to assist in safeguarding the countryside from encroachment" and paragraph 1.4 explains that one of the intentions of Green Belt policy is to keep land permanently open. It is noted that the most important attribute of Green Belts is their openness. As noted above, the application site is located approximately 70m from the nearest dwelling and has little visual relationship with its nearest built development. The proposed garage would be located 16.5m to the south of the existing building. Whilst the rear boundary hedge provides some level of backdrop to the development, it is viewed that the proposal would, to a large extent, stand alone in relation to the relatively open nature of the site. It is therefore viewed that the proposal would amount to encroachment into the countryside. The garage is a sizable structure measuring 8.24m (L) x 6.44m (W) x 4.8m (H). This would have a significant impact on the openness of the Green Belt. I am therefore of the opinion that the proposal is detrimental to the purposes of including land within the Green Belt and challenges the intentions of Green Belt policy.

Very Special Circumstances

It now follows for me to consider whether any very special circumstances exist which would outweigh the harm by reason of inappropriateness, harm to openness and harm due to encroachment. The applicant, as part of the application process, has submitted a number of factors to justify the development. I will address each of these considerations below.

▪ **Permitted development fallback position**

Permitted development rights were removed from the converted building under application 09/0875 and, as such, no fall back position exists within the curtilage of the converted building.

It is noted that the applicant indicates ownership of the property (Foxhill House) to the north of the application site and the right to exercise Permitted Development rights to build a larger structure than that currently proposed on the land adjacent the northern boundary of the application site.

Class E of the General Permitted Development Order (as amended) allows for

'The provision within the curtilage of the dwellinghouse of -

- a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwelling house as such, or the maintenance, improvement or other alteration such a building or enclosure.'

Members will note that note that the Court of Appeal case Dyer -v- Dorset D.C. 1988 defined a curtilage as 'a small area forming part or parcel with the house or building which it contained onto which it was attached'. One of the appeal judges endorsed as adequate for most present day purposes the Oxford English Dictionary definition of curtilages: 'A small court, yard, garth or piece of land attached to a dwellinghouse, and forming one enclosure with it, or so regarded by the law: the area attached to and containing a dwellinghouse and its outbuildings'.

The scale and area of the land purported to be within the residential curtilage of Foxhill House conflicts with the definition of curtilage as a 'small area' serving the immediate needs of a dwelling. The land immediately to the north of the application site has an agricultural appearance and relatively recent satellite images show the grazing of sheep. There appears to be little historic close functional link of the land for uses incidental to the dwelling of Foxhill House. It is noted that on a recent officer site visit, a volley ball net was located on this land; however, the land was clearly distinct, by virtue of an established boundary treatment, from the 'formal garden' of Foxhill House. There is, therefore, not an intimate association between Foxhill House and the land immediately adjacent the northern boundary of the application site. For example, it can easily be envisaged that this land could be sold off with no detriment to the function of the established residential curtilage of Foxhill House.

In summary of the above considerations, it is concluded that the land immediately to the north of the application site is not within the residential curtilage of Foxhill House and therefore, the applicant would be unable to construct a larger building than that presently proposed adjacent the northern boundary of the application site. Members will also note that buildings constructed under Class E of the GPDO (as amended) are required, not only to be within a residential curtilage, but also to be constructed to serve the dwelling whose curtilage they are within. Constructing an outbuilding within the curtilage of Foxhill House to serve the converted property at Foxhill House Barn would therefore fall outside of what is allowed under the applicant's permitted development rights.

It is therefore viewed that there is no realistic permitted fallback position that would represent very special circumstances to justify the harm to the openness of the Green Belt represented by this proposal.

It is also noted that the granting or refusal of the current application will not affect the Permitted Development rights on land surrounding the application site. As such, the ability to exercise permitted development rights on nearby land does not form a material consideration in assessing this application.

- **Energy efficiency**

The Design and Access Statement explains that the applicant is undertaking the approved conversion to a high level of sustainability, energy conservation, etc., incorporating the latest energy saving technology. The applicant wishes to use solar panels to power the electricity required for the converted building. However, the existing building faces west / east which is the poorest roof orientation for solar panels. Solar panels would be sited on the roof of the proposed garage and used to provide electricity for the conversion and garage. Policy ES11 of the BDLP states that the Council will support measures by developers to improve the energy efficiency of all building forms. PPS22 aims to encourage the development of renewable energy schemes and sets out the key principles that local planning authorities should consider in relation to such developments.

In relation to Green Belts, it is stated that developers should demonstrate that very special circumstances exist to outweigh a proposal's harm to the Green Belt. It is viewed that the wider community benefit of the proposed use of the proposed solar

panels far from justifies the mass and siting of the proposed garage and does not amount to a very special circumstance to outweigh the level of harm caused.

- **Real and perceived security problems**

No provision is made under policy DS2 for the erection of detached outbuildings to serve domestic properties and policy C27 requires conversion schemes to have no greater impact on the openness of the Green Belt than the existing use.

A detached garage was originally proposed in association with the application to convert the helicopter hangar to residential. This original garage was clearly communicated to the applicant to be inappropriate development and was removed in order for the plans to be recommended for planning permission to be granted.

In relation to how much weight to attach to the issue of providing secure garaging, I note the comments of a Planning Inspector regarding this issue in a recent appeal decision (Decision date 31st March 2011, planning ref 10/1129):

'the appellant identifies a need for a secure garage in which to keep his vehicles. He suggests that the location of the site on the edge of the village makes this more necessary. Whilst I have sympathy with the appellant's wish for secure garaging this would not amount to a justification for the proposed scheme, which would be larger than is necessary to fulfil this function and unsympathetically sited. This argument therefore carried limited weight.'

Whilst each planning application should be assessed on its own merits, it is viewed that security considerations, in this instance, carry limited weight and do not represent very special circumstances outweighing the harm to the Green Belt. If provision of secure garaging was fundamental to the residential usage of the converted helicopter hangar, this should have formed part of the original application for residential conversion to allow appropriate assessment in accordance with relevant adopted policy C27 of the BDLP.

- **Extensive tree and hedge planting screening**

In relation to how much weight to attach to the issue of providing landscape planting for screening, I note the comments of a Planning Inspector regarding this issue in a recent appeal decision (Decision date 31 March 2011, planning ref 10/1129),

'Whilst landscape planting might in time soften its appearance it would not reduce its effect on the openness of the Green Belt. Overall this argument therefore carries little weight.'

Whilst each planning application should be assessed on its own merits, it is viewed that provision of landscape planting carries limited weight and does not represent very special circumstances outweighing the harm to the Green Belt.

With regards to the 'actual' harm to the Green Belt, Members will note that regardless of the extent to which an extension can be seen from outside the site, PPG2 makes no reference to the way in which openness is perceived and it makes no concessions

with regard to development which is screened or otherwise hidden from view. Even when a development cannot be seen in the wider context, this does not make it appropriate in terms of Green Belt policy. Thus, it should be noted that, in terms of Green Belt policy, lack of visual harm, in itself, does not amount to a very special circumstance.

In summary, the factors put forward by the applicant in support of their application are not viewed to represent very special circumstances outweighing the harm the proposal represents to the Green Belt.

Design and landscape issues

Policy D.16 of the WCSP and policy C27 of the BDLP seek to ensure that the conversion of rural buildings does not harm the character of the building or its setting. The existing building was constructed in the late 1990s and whilst of a modern construction is, to some extent, of a traditional style. Its agricultural origins remain identifiable.

I note that the proposal takes some reference from the existing building, with horizontal timber boarding and exposed rafter feet. It is also acknowledged that the proposed designs, by virtue of removing first floor dormer windows and external entry to the first floor, are significantly less domestic in appearance than the previously refused plans 10/0547. However, the scale and isolated location of the proposal does raise concerns and it is viewed that the garage would not sit comfortably in this context.

Policy DS9 of the BDLP states that in designated environmental areas, including Landscape Protection Areas, development proposals will not be granted unless it can be demonstrated that the impact on the landscape will be negligible. The site is well screened from the lower land to the east and the only public vantage point of the application site is at its access point on Foxhill Lane. As such, the area of landscape affected by the development is relatively small. However, it is viewed that the scale of the proposal in a relatively open and isolated location will detract from the appearance and value of the landscape.

Tree issues

The garage is located approximately 6m from a mature tree located within the boundary hedge. Whilst this tree does contribute to the character of the locality, I note that it has been unsympathetically cut back in the past (due to presence of power lines above). It is noted that the Tree Officer raised no objection to the previously refused development subject to conditions.

Residential amenity issues

As the application site stands away from other residential properties, the proposed development does not raise any residential issues.

Conclusion

The proposed detached building represents a significant reduction in size to the scheme previously refused (10/0547) at Planning Committee. The current proposal has, however,

been found to be an inappropriate form of development in the Green Belt which would be detrimental to the openness of the Green Belt and the purposes of including land within it. No very special circumstances have been found to justify the level of harm caused. In addition, the size and isolated siting of the building would be detrimental to the character and amenities of the locality and would have a negative impact on the Landscape Protection Area in which the site is located.

RECOMMENDATION: that permission be **REFUSED**.

- (1) The proposed detached building represents inappropriate development in the Green Belt and inappropriate development is, by definition, harmful. The position of the development away from the existing building on site is a form of encroachment into the countryside and therefore conflicts with the purposes of including land in the Green Belt. In addition, the building would unduly harm the openness of the Green Belt. The proposal is therefore considered contrary to policy DS2 of the Bromsgrove District Local Plan 2004, policies D.38 and D.39 of the Worcestershire County Structure Plan 2001 and the provisions of Planning Policy Guidance 2: Green Belts. No very special circumstances exist that would outweigh the harm that would be caused.
- (2) The proposed detached building, by reason of its size and isolated siting would be detrimental to the character and amenities of the locality and would have a negative impact on the Landscape Protection Area. The proposal is therefore found contrary to policies DS9, DS13 and C4 of the Bromsgrove District Local Plan 2004, and policies CTC.1 and D.16 of the Worcestershire Local Plan.

Note

The Council does not consider the red line drawn on the location and site plans to represent the domestic curtilage of the dwelling approved under application 09/0875.