
Appeal Decision

Site visit made on 6 February 2017

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 01 March 2017

Appeal Ref: APP/J1915/W/16/3162109

2 Mayflower Close Hertingfordbury, Hertford SG14 2LH

- 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 Mr B Musk against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1843/FUL, dated 9 August 2016, was refused by notice dated 5 October 2016.
 - The development proposed is demolition of existing house and erection of a detached five bedroom replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - (ii) The effect of the development on the openness of the Green Belt;
 - (iii) The effect of the development on the character and appearance of the area; and
 - (iv) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

3. The appeal property comprises a detached two storey dwelling with a linked double garage on a large spacious plot in a small cluster of dwellings in the Metropolitan Green Belt on the western edge of the village of Hertingfordbury. The proposal is to replace the existing property with a two storey dwelling.

Whether inappropriate development in the Green Belt

4. Paragraph 89 of the National Planning Policy Framework (the Framework) establishes that new buildings within the Green Belt are inappropriate
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- development unless the development falls within a list of stated exceptions. One exception involves the replacement of a building provided that the new building is in the same use and not materially larger than the one it replaces.
5. This national guidance is to be read together with development plan policy, including Policies GBC1, HSG7 and HSG8 of the East Herts Local Plan Second Review (LP). These policies allow for the replacement of dwellings in the Green Belt where, amongst other things, the volume of the new dwelling is not materially larger than the dwelling to be replaced plus any unexpended permitted development rights (UPDR) excluding separate buildings.
 6. The new building would in the same use as the one to be replaced. The Council and the appellant agree that the floorspace of the existing house measures about 218 sqm and the volume is 702.4 cubic metres. The Council state that the new replacement dwelling would amount to a floorspace of about 413 sqm and a volume of 2702.2 cubic metres. This would amount to increase in size of 1999.8 cubic metres or about 284% larger than the existing dwelling. The appellant, however, consider that the volume of the proposed dwelling would be lower at 1540 cubic metres. There is no information to confirm or deny the accuracy of the appellant's calculations but without allowing for further additions that could be carried out as permitted development, there is agreement that the volume of the proposal would be larger than the existing dwelling.
 7. The main parties also agree that the existing house could be enlarged through the exercise of UPDR albeit there is a difference of opinion regarding the additional floorspace and volume that could be created in this way. The appellant considers that the Council has not fully taken into account the permissions that were obtained in 2016 for a part two storey/part single storey side and first floor side extensions to the existing dwelling¹, a single storey rear extension allowed under the prior approval notification process² and the side extension and dormers issued with a Lawful Development Certificate³.
 8. The Council estimates that the UPDR for the side and rear extensions would total 1295.7 cubic metre or about 108.5% larger than the existing dwelling and the dormers would add 45.5 cubic metres. The appellant considers that the Council have failed to take into account the planning permission for the side extensions that would add a further 350 cubic metres and would extend the floor area of the existing dwelling to about 470 sqm. However, the Council contends that the volume of the side extensions were not taken into account as Policy HSG8 refers only to UPDR. The Planning Practice Guidance (PPG) clearly makes a distinction between building works that can be carried out without having to make a planning application under the permitted development rights⁴ and those where planning permission is needed and granted for 'development' which is set out in Section 55 of the Town and Country Planning Act 1990⁵. In this respect, I concur with the Council on the interpretation of Policy HSG8 and as such this would exclude the planning permission granted for the side extensions in this case.

¹ 3/15/2565/HH

² 3/16/0795/PNHH

³ 3/16/0794/CLP

⁴ PPG Paragraph: 016 Reference ID: 13-016-20140306

⁵ PPG Paragraph: 001 Reference ID: 13-001-20140306

9. Clearly there is significant difference between the figures provided by the Council and the appellant. However, even taking the appellant's best case scenario (assuming that UPDR extensions were implemented) the volume of the existing dwelling including the dormer extensions would total about 1341 cubic metres, whilst the proposed dwelling would be about 1540 cubic metres. I take the view that such an increase in the volume of the building cannot reasonably be considered anything other than materially larger than the one it replaces and as such would conflict with the Framework and the development plan.
10. Consequently, the proposal would constitute inappropriate development in the Green Belt that is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. It conflicts with the aims of the Framework and Policies GBC1, HSG7 and HSG8 of the LP, which are broadly consistent with the Framework on this approach to the Green Belt. In accordance with the Framework, I attach substantial weight to the harm arising due to the inappropriate nature of the development in this location.

Openness of the Green Belt

11. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The Framework advises at Paragraph 79 that openness and their permanence are essential characteristics of Green Belts. Openness is generally defined by an absence of built form.
12. The proposed replacement dwelling, by virtue of size and bulk, would result in an increase in the built form of the building which would compromise the sense of openness at the site. Consequently, I conclude that the development would result in harm to the openness of the Green Belt and as such would conflict with the aims of the Framework which seek to preserve the openness of the Green Belt. I give substantial weight to that harm.

Character and appearance of the area

13. The property forms part of a small cluster of predominantly two storey dwellings set in relatively spacious plots. The area is rural in character with open fields that slope away to the rear of the appeal site. The open character and appearance is further enhanced by the presence of mature landscaping and established trees within the surrounding gardens and countryside.
14. The proposal would involve the construction of a detached two storey dwelling with a pitched crowned roof with a ridge height of about 8.6 metres that would be set back from the road broadly in line with the adjacent dwellings.
15. The proposed dwelling by virtue of its greater height, scale and visual bulk would be substantial and stand out in the rural landscape considerably more prominently than the existing dwelling. The flat crowned roofed design of the proposed dwelling would be very much at odds with the more traditional pitched roof design of the other properties in the area. These shortcomings would be exacerbated by the hard edged appearance of the new parking area at the front of the appeal site and the proposal's prominent position, which would be visible from Mayflower Close. As such, I consider the development would result in an incongruous and out-of-keeping addition that would adversely harm the character and appearance of the area.

16. Consequently, I conclude that the proposal would have a harmful effect on the character and appearance of the area. The development would conflict with Policies ENV1, ENV2, OSV3 and HSG8 of the LP. These policies, amongst other things, seek to ensure that all development will be of a high standard of design to reflect local distinctiveness and the proposal respects the character, visual quality and landscape of the surrounding area; and that proposals for a replacement dwelling in the Green Belt are no more visually intrusive than the dwelling to be replaced. In addition, it would not accord with the Framework that development should seek to secure a high quality of design (paragraph 17); to respect the local character (paragraph 58); and to promote or reinforce local distinctiveness (paragraph 60).

Other considerations

17. I note the appellant's statement on the fallback position on the appeal site and the appellant's preference to build a replacement dwelling rather than the extensions. There is, however, a reasonable likelihood that the appellant would implement all or some of the extant permissions if the appeal is dismissed. Be that as it may, in my view the scale and massing of the proposed extensions would not be as substantial as the proposal now before me and would have more limited impact on the openness of the Green Belt and the character and appearance of the area than the proposed replacement dwelling. I therefore accord these matters moderate weight in making this decision.
18. I have considered the appellant's comments that since the previous planning refusal on the site⁶, the size and massing of the proposed replacement dwelling have been reduced and the new dwelling redesigned to be more in keeping with the adjacent properties and the area. Whilst these features, together with the landscaping and boundary treatment, would assist in integrating the proposal with the area, these aspects do not overcome the adverse effects outlined above and are matters to which I attach only limited weight.
19. I have considered the appellant's comments regarding the context provided in the Framework and the local planning policies for good design and the importance of considering the local character and distinctiveness, but I find that the replacement dwelling does not achieve the standards the Framework and the local policies seek. I also note the appellant's need and the benefits to the family arising from the proposed additional accommodation. However, such circumstances are material considerations to which I can attach only limited weight in making this decision.

Very Special Circumstances

20. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also concluded that the proposal would harm the openness of the Green Belt. Paragraph 88 of the Framework states that substantial weight should be given to any harm to the Green Belt. I consider the proposal would be harmful to the character and appearance of the area to which I attach significant weight.
21. Having considered all of the matters raised in support of the development, I conclude that, collectively, they do not outweigh the totality of the harm I have

⁶ 3/15/1867/FUL

identified in relation to the Green Belt. Accordingly, very special circumstances do not exist and the development would be contrary to Policies GBC1, HSG7 and HSG8 of the LP and the Framework.

Conclusion

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR