

Appeal Decision

Site visit made on 21 March 2017

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 7 April 2017

Appeal Ref: APP/J1915/D/17/3169030

31 Brickendon Green, Brickendon SG13 8PB

- 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 Winpost Limited against the decision of East Herts Council.
 - The application Ref 3/16/2417/HH was refused by notice dated 8 December 2016.
 - The development proposed is described on the planning application form as a 'two storey side extension, single storey rear extension and new dormer with internal alterations'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The biodiversity consultee, Hertfordshire Ecology (HE) has raised matters which were not addressed in the Council's report or in the representations made on behalf of the Appellant. In the interests of fairness the main parties have been given the opportunity to comment on this issue.
3. The description of development given on the application form refers to a single storey rear extension. This can more accurately be described as a first floor extension, as stated on the Council's decision notice and on the appeal form.

Main issues

4. The main issues in this appeal are:
 - Whether the proposed development amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework) and the development plan.
 - Whether the proposal would preserve or enhance the character or appearance of the Brickendon Conservation Area, within which the site is located.
 - The implications of the proposal for biodiversity, having regard to Government policy in Circular 6/2005 Biodiversity and Geological conservation – Statutory obligations and their impact within the planning system.
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Reasons

Green Belt

5. The appeal concerns a semi-detached dwelling located within the Green Belt where Government policy in the Framework identifies development that would not be inappropriate. The extension or alteration of a building is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. East Herts Local Plan Second Review, April 2007, Policy GBC1 identifies limited extensions to existing dwellings as not being inappropriate in the Green Belt.
6. Ground and first floor extensions to the dwelling at the appeal site were permitted by the Council in 2010 but have not been built and the permission has expired. There is no evidence of any other enlargement and so the property, as existing, can reasonably be considered to comprise the original dwelling for the purpose of applying Green Belt policy in the Framework.
7. The Council indicates that the floor area of the existing dwelling would be increased by about 60%. However, The Framework places no specific threshold on any increase in size and my attention has not been drawn to any development plan or other Council policies that seek to do so. In these circumstances considering whether there would be disproportionate enlargement must be a matter of judgement.
8. The length of the extension to the side would only be about half of that of the existing dwelling. It would also be no higher and project no further rearwards or forwards than the existing property. The rear dormer addition would be a fairly small feature with a significant area of uncovered roof slope in the side extension around it. The first floor extension would be built on the existing catslide roof, being set back from its ground floor level eaves and significantly below the main ridge. The dormer and first floor addition would also have hipped roofs, further limiting their relatively modest bulk.
9. In these circumstances, I consider that the proposal would not result in disproportionate enlargement of the original dwelling, while also comprising limited extensions. It is therefore concluded that the proposal would not be inappropriate development in the Green Belt in the terms of the Framework and development plan.
10. The Council also contends that there would be a loss of openness to the Green Belt and refers to the increase in footprint of 33 sq m. However, the identification of enlargement that would not be disproportionate in the Framework and limited extensions in the development plan as not being inappropriate represents an implicit acknowledgement that such development would not be considered detrimental to the openness of the Green Belt.
11. I have considered the representations of the Appellant in relation to the Council's approach to the effect on the Green Belt, having regard to Local Plan Policy ENV5, planning permissions granted at other sites at Brickendon Green and on appeal at no. 42 Brickendon Lane. However, I have found the development to be acceptable in relation to Green Belt policy in the Framework and Policy GBC1 anyway.

Conservation Area

12. The fairly small pitched roof dormer in the east facing elevation would contrast with the fairly wide flat roofed dormer extension in the attached dwelling at no. 30. The first floor extension above the catslide would also not reflect any similar feature of the adjoining property. However, despite not matching the neighbouring house, these features would be fairly modest in size, forming particularly subordinate features. The proposal would result in the pair of semis having broadly similar lengths due to a previous side extension to no. 30. While acceptable in itself, I do not consider this a significant benefit as the overall building has a fairly balanced form anyway due to the hipped roof ends of each dwelling.
13. As a result, there would be no detrimental impact on the architectural quality of the host dwelling and pair of properties, or in relation to the Conservation Area as a whole. However, I am not persuaded that the development is of such high quality that they would be enhanced. While the character and appearance of the Conservation Area would not be enhanced it would, nevertheless, be preserved. There would be no conflict with Government policy in the Framework, where it is indicated that great weight should be given to the conservation of designated heritage assets.

Biodiversity

14. The comments of HE raise matters concerning the potential effect on Protected Species and the need for a Bat survey. Despite the Council not considering this issue in its report, not requesting a Bat survey and there being no biodiversity reason for refusal, this is an important material consideration to which I must have regard.
15. In Circular 6/2005 it is stated that, "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development".
16. Neither of the main parties consider that there is a reasonable likelihood of Bats being present. The Appellant criticises the lack of more detail in relation to the information from HE regarding the presence of Bats in the area and says there is no evidence of them being recorded at the appeal property, while the Council considers it unlikely that the building has potential as a roost.
17. Nevertheless, HE indicate that the property is in a rural location close to semi-natural habitats, including scrub, grassland, woodland, ponds and drains. Despite the absence of more detail, the evidence of the relevant consultee is that there are records of Bats and Great Crested Newts in the area. In relation to Great Crested Newts it is suggested that measures should be taken during construction to suitably safeguard them. The expert advice of HE is that bats

will roost in buildings if conditions are suitable and I do not accept the Council's assertion that this is unlikely in this instance.

18. I consider that on the basis of the expert evidence, there is a reasonable likelihood of Bats being present. I take this view even though there is no specific record of their presence at the appeal site itself and it would be the purpose of a survey to establish this. Moreover, because of the significant modification that would occur to the existing roof, if Bats are present they may well be affected. Even if HE's assessment is solely desktop based, as the Council suggests, it is, nevertheless, the only expert evidence available to me on this matter.
19. The Appellant refers to planning permissions elsewhere in the vicinity and the appeal decision at no. 42 Brickendon Lane where there is no mention of Bats. I do not have the Council's reports on these cases and details of who was consulted but I also note that in this instance there is no reference in the report to this matter. In any event, I must consider this appeal on its own merits and based on the evidence available to me.
20. It has not been shown that there are any exceptional circumstances in this case and dealing with the matter by means of a condition would not be acceptable. I conclude that there is conflict with Circular 6/2005 due to the lack of a Bat survey, which should be carried out prior to the granting of permission. In the absence of such a survey it will not have been possible to ascertain the likely impact on Bats. As a result the interests of biodiversity would potentially be harmed, even if the effect on Great Crested Newts could be suitably addressed by a condition.

Conclusion

21. The proposal would have no adverse effect on the Green Belt or the Conservation Area. However, it would not be acceptable having regard to the interests of biodiversity and Government policy in Circular 6/2005. Taking account of all other matters raised, it is therefore determined that the appeal fails.

M Evans

INSPECTOR