

Appeal Decision

Site visit made on 25 April 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/B1930/W/17/3167091

Pennypond, Annables Lane, Kinsbourne Green AL5 3PL

- 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 & Mrs J Cozens against the decision of St Albans City & District Council.
 - The application Ref 5/16/1029, dated 4 April 2016, was refused by notice dated 12 August 2016.
 - The development proposed is a 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; and
 - (iii) 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 site forms part of a well-established ribbon development situated in a rural Green Belt location set back from the road behind a driveway/front garden within a mature spacious landscaped plot. The appeal property, originally a chalet bungalow, has been extended to form a detached two storey gabled roofed dwelling with a flat roofed single storey rear extension and a pitched roofed garage projecting from the front of the dwelling. To the side and rear are the garden areas and outbuildings associated with the adjacent properties.
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4. Planning permission has already been granted for a replacement five bedroomed, two storey dwelling with a hipped pitched roof in December 2016¹ on the appeal site. The appeal proposal is to replace the existing property with a detached six bedroomed, two storey dwelling with a gabled pitched roof and habitable roof space with roof lights.

Whether inappropriate development in the Green Belt

5. Paragraph 89 of the National Planning Policy Framework (the Framework) establishes that new buildings within the Green Belt are inappropriate 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.
6. This national guidance is to be read together with development plan policy, including Policies 1 and 13 of the City and District of St Albans District Local Plan Review 1994 (LPR). Although not fully compliant with the Framework, these policies allow for the replacement of dwellings in the Green Belt where, amongst other things, the new dwelling occupies the site of the original dwelling is similar in character and size to the existing dwelling, plus any extension (including garages or outbuildings) built as part of the original building² and is visually well integrated with its rural surroundings. As its aims are broadly consistent with the Framework I have given these policies significant weight.
7. The Council's Residential Extensions and Replacement dwellings in the Green Belt Supplementary Planning Guidance 2004 (SPG) provides supplementary information to assess whether or not the size of a replacement dwelling is acceptable in the context of Policy 13 of the LPR. The SPG outlines that an increase in volume of between 90 cubic metres and 180 cubic metres maybe acceptable and an increase in floorspace of between 20% and 40% volume (subject to a maximum increase in cubic content of 300 cubic metres). Further guidance is also set out to assess how well a proposal preforms against the criteria in Paragraph 7.1 of the SPG. This criteria includes whether a dwelling has been previously extended, the visibility from public viewpoints and does it extend into any important gaps between dwellings, to determine how large or small within the size ranges the proposal should be.
8. The Council and the appellants agree that the floor space of the existing house measures about 216 sqm and the floor space of the new replacement dwelling would be about 312 sqm. This would result in an increase in the floor space by 96 sqm or 44.44% larger than the existing dwelling. The main parties also agree that the volume of the existing house measures about 727 cubic metres and the volume of the new replacement dwelling would be about 1050 cubic metres. This would result in an increase in the volume by 323 cubic metres.
9. The appellants argue that the proposed replacement dwelling would not be materially larger, as the proposal would be about 4% above the SPG guidance in terms of the floorspace and about 23 cubic metres above the maximum cubic figure. However, the Council consider that the appellants have misinterpreted the SPG as the comparison made relates to the maximum

¹ 5/2016/3249

² The glossary of the Framework defines 'original building' as that as existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

floorspace and the overall maximum increase in cubic content. The Council also contend that this does not take into account the assessment of the appeal proposal against the criteria in Paragraph 7.1 of the SPG. Based on the evidence before me, I share the Council's view that the appeal proposal performs moderately and as such would fall at or towards the bottom of the size ranges in the SPG.

10. However, fundamentally these complications and the dispute between the parties over the interpretation of the SPG are not crucial to my determination of the appeal. Taking the appellants best case scenario, the proposed replacement dwelling at 1050 cubic metres, would be 323 cubic metres or 44.42% larger than the existing dwelling. I take the view that such an increase in the size cannot reasonably be considered to be anything other than materially larger than the one it replaces and does not fall within the fourth bullet point exception in paragraph 89 of the Framework.
11. 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 1 and 13 of the LPR. 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

12. 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. Whilst there is limited visibility of the proposal along the access driveway into the appeal site and the proposed development is well screened by the mature landscaping, openness is generally defined by an absence of built form and not necessarily by visibility.
13. The proposed replacement dwelling, by virtue of its 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.

Other considerations

14. I note the appellants statement on the approved replacement dwelling and the appellants preference to build the appeal proposal rather than the approved scheme due to the benefits to the family arising from the proposed design and additional space. I note the appellants comments regarding the similarities between the appeal proposal and the approved scheme and the minimal external difference.
15. There is, however, a reasonable likelihood that the appellants would implement the extant permission if the appeal is dismissed. In my view the scale and bulk of the approved scheme with a hipped roof design would not be as substantial as the proposal now before me and would have more limited impact on the openness of the Green Belt. I therefore accord these matters moderate weight in making this decision.

16. I have considered the appellants statement on the fall-back position on the appeal site and the appellants options to extend the building using permitted development rights. Whilst it may be the case that such rights can be exercised, there appears to be no lawful development certificate to confirm this. In my view this is necessary to clarify the extent of the fall-back position and to demonstrate the likelihood of its implementation. Thus, in these circumstances, the weight that I give to this matter is limited.
17. The appellants contend that the additional floorspace could be justified given that the attic space can be converted without the need for planning permission. I observed during my site visit that the appellants were currently using the attic space for family use. Be that as it may, such a development has a neutral impact on the openness of the Green Belt and does not result in any increase in the cubic content of either the existing property or the approved scheme. It therefore does not overcome the inappropriateness of the proposed development as outlined above and as such is a matter to which I can attach only limited weight in making this decision.
18. The appellants also contend that the improved high quality design and amended siting of the new dwelling would be an enhancement to the streetscene, resulting in a much better appearance than the existing property or the approved scheme. I agree that the proposed dwelling would be of high quality design and would be in keeping with the other properties and the character and appearance of the area and this would result in moderate weight in support of the scheme. Furthermore, it is contended that the proposal would not be at odds with Green Belt purposes to maintain its openness but for the reason set out above, I do not consider that this attracts any additional weight.

Very Special Circumstances

19. 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.
20. 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 identified in relation to the Green Belt. Accordingly, very special circumstances do not exist and the development would be contrary to Policies 1 and 13 of the LPR and the Framework.

Conclusion

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

David Troy

INSPECTOR