

Appeal Decision

Site visit made on 12 June 2017

by Michael Evans BA MA MPhil DipTP MRTPI

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

Decision date: 6th July 2017

Appeal Ref: APP/J1915/D/17/3173347

9 Bishops Road, Tewin Wood, Tewin AL6 0NR

- 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 and Mrs Winter against the decision of East Herts Council.
 - The application Ref 3/16/2759/HH was refused by notice dated 8 February 2017.
 - The development proposed is described on the application form as 'Two and single storey side and rear extensions, alterations to front elevation and new fences, gates and post to front of property.'
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Decision

1. The appeal is dismissed insofar as it concerns a first floor side and rear extension and other alterations.
 2. The appeal is allowed and planning permission is granted for gates, brick piers and a hedge to the front of the property, at 9 Bishops Road, Tewin Wood, Tewin AL6 0NR, in accordance with the terms of the application, Ref 3/16/2759/HH, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Notwithstanding the reference to a fence on drawing 01 C, the development hereby permitted solely comprises gates, brick piers and a hedge to the front of the property and shall be carried out in accordance with the plans Ref 01 C and 04 G.
 - 3) No development shall take place until full details of the hedge, including a timetable for its planting, have been submitted to and approved in writing by the local planning authority, and these works shall be carried out as approved. The submitted details shall include species of plants and their sizes and positions. If, within a period of 5 years from the date of planting, any plant is removed, uprooted, destroyed or dies, another of the same species and size shall be planted at the same place, unless the local planning authority gives its written consent to any variation.
 - 4) The gates shall be installed so as to open inwardly and away from the highway and thereafter be retained as such.
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Preliminary Matters

3. The description of development on the application form refers to new fences, gates and post, while the proposed site plan includes a reference to a 1.5m fence. However, the proposed front boundary elevation shows painted metal gates and piers with a hedge. As assessed by the Council in its report on the application this is clearly the intended frontage scheme and I shall consider this appeal on the same basis. Despite the description given on the application form the proposed enlargement of the dwelling can be more accurately described as a first floor side and rear extension, as suggested by the Appellants. I shall therefore use an amended description in my decision to reflect these matters.
4. The surname of the Appellants has been spelt differently on the appeal form. In the heading above I have used that given on the application form.

Main Issue

5. The main issue in this appeal is whether the proposed development amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework) and development plan policy and, if so, whether the 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 development.

Reasons

Inappropriate development

6. The appeal concerns a 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. In Annex 2 of the Framework the term 'original building' is defined. This is said to be a building as it existed on 1 July 1948, or if constructed later, as it was built originally.
7. East Herts Local Plan Second Review, April 2007, Policy GBC1 identifies limited extensions in accordance with Policy ENV5 as not being inappropriate in the Green Belt. Outside certain settlements Policy ENV5 seeks to prevent extensions that by themselves or cumulatively with other extensions would disproportionately alter the size of the original dwelling.
8. The term 'building' is not defined in the Framework but the definition in the 1990 Act refers to any structure or erection and is therefore taken to include gates and piers. As a result, this part of the scheme should be treated as a 'building' for the purposes of the Framework and development plan. New buildings should be regarded as inappropriate development in the Green Belt unless they fall within the list of exceptions given in Paragraph 89 of the Framework. Policy GBC1 also identifies a similar list of exceptions.
9. The Council indicates that the original dwelling or building was constructed following a planning permission granted in 1960. It is also explained that in conjunction with previously built extensions the current proposal would result in a cumulative increase of 160% in floor area over that of the original building.

10. The Appellants refer to paragraph 8.9.2 of the Local Plan which states that *it is not possible to state categorically what maximum size of extension is likely to be permissible, given the wide range of existing dwelling types and sizes which comprise the rural housing stock*. However, this does not suggest that quantitative indicators of size such as floor area should not be taken into account but simply that a precise threshold or maximum cannot be identified. I note the generalised reference in this context by the Appellants to appeal decisions but no specific cases have been submitted.
11. Moreover, I see no reason why floor area should not be a reasonably good indicator of size and no arguments have been advanced to persuade me otherwise. In my view, an increase of such a magnitude as more than one and a half times the size of the original dwelling could not reasonably be considered to do other than reflect a disproportionate enlargement.
12. The Council also describes the original dwelling, which is said to comprise a two storey part under the gable ends on the front and rear elevations and a small flat roof single storey side projection. It is explained that this has been extended to the sides and rear at single and two storey level with a front porch and a pitched roof added to the flat roof. The latter alteration means that the Council's calculation of the additional floor area understates the increased cumulative bulk.
13. I have not been provided with the drawings of the dwelling permitted in 1960, as the Council indicates that it is not possible to make clear copies. However, the Appellants do not dispute that this is the original dwelling. The Council has also given the above description and I have not been provided with any alternative evidence that contradicts it.
14. The Appellants explain that any change in footprint from the proposed enlargement would be nominal. The side extension would be set back behind the front gable, as with the two storey part to the other side. However, the new roof ridges of the addition would be at the same height or only minimally lower by comparison to those of the existing two storey parts. The addition would also project appreciably further to the rear at first floor level. On a cumulative basis it is clear that the two storey length of the original dwelling across the front and rear elevations would have been substantially increased. The excessive overall bulk added to the original dwelling would be further emphasised by the gable ended form at the sides.
15. On the basis of the information before me I conclude that on either a quantitative or qualitative basis, the enlargement would result in disproportionate additions to the original building. In consequence, it is concluded that the extension of the dwelling would comprise inappropriate development in the Green Belt. The gates and piers do not comprise any of the stated list of exceptions in the Framework or Policy GBC1, so that this would also comprise inappropriate development.
16. The Framework states that inappropriate development should not be approved except in very special circumstances, which will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations. Policy GBC1 is consistent with this approach.

Openness of Green Belt

17. It is explained in the Framework that the essential characteristics of Green Belts are their openness and permanence. The openness of the Green Belt derives from an absence of built development. The proposed enlargement would result in significant additional solid built volume and bulk at first floor level. In consequence, the openness of the Green Belt would be materially reduced.
18. The gates would have a fairly transparent character due to the spaces between the vertical railings. The piers would be relatively slender with significant gaps between them. Because it comprises vegetation rather than built form, the hedge would not reduce openness. In consequence of these factors this part of the scheme would have no material effect on the openness of the Green Belt.

Other considerations

19. The Appellants refer to the planning permission granted by the Council in 2008 for enlargement of the dwelling. It is suggested that the decision to refuse the current scheme is inconsistent with that as there are negligible differences between the permitted scheme and current proposal. However, it is clear from the Council's report in relation to the 2008 permission that the original dwelling was not correctly identified as that resulting from the 1960 permission. As a result, the assessment of the increase in size by reference to the original building was fundamentally flawed and understated.
20. This report includes reference to the design of the extension being in keeping with the existing dwelling and acceptable in relation to openness while also keeping a visual break but these matters are not concerned with proportionality. Whether the extension would result in disproportionate cumulative enlargement relative to the original building was only considered in relation to floor area and there is no qualitative assessment of this specific matter. Moreover, given the failure to correctly identify the original building, even if there had been it would have been as flawed as that carried out on a quantitative basis.
21. Consistency is an important consideration in the planning process, as highlighted in the Planning Practice Guidance. However, in this case consistency would be achieved by disregarding the serious error in the assessment of the approved scheme. It would involve accepting enlargement that comprises inappropriate development and would significantly harm the openness of the Green Belt because of a previous mistake. This decision should not therefore be used as a precedent to justify the current proposal.
22. The current proposal reflects a better design due, for example, to the absence of the single storey part to the side wrapping around the front. However, the differences in appearance are fairly modest and, in any event, the previous permission has expired and cannot therefore comprise a fall-back position that could be implemented instead.
23. It is also the case that the addition now proposed would be 0.5m wider than that previously approved. In consequence, it would result in a materially greater reduction in openness than the permitted scheme. Because of these factors and despite the policy context not being significantly different, this planning history is not a consideration that should weigh appreciably in favour of the appeal.

24. The Appellants suggest that the hip on the roof of the single storey part linking to the two storey flank has resulted in an awkward roof arrangement. It is argued that the removal of this and the creation of a balanced and symmetrical front elevation would enhance the character and appearance of the dwelling.
25. However, the hip to the single storey part reflects the roof slope of the two storey part that slopes down towards it and provides some relief to the bulk of the building. While the development would result in a high degree of symmetry, I do not consider the existing appearance to be particularly unsightly or detrimental. I am not therefore persuaded that there would be significant benefits to the character and appearance of the host dwelling.
26. The Appellants make a generalised reference to the substantial enlargement of dwellings in the locality and specifically identify the property at 1 Bishops Road. However, without the full details and background to any other case no meaningful comparison can be made with the current proposal.
27. In consequence of the above factors, these considerations are not afforded anything other than fairly limited weight in favour of the appeal. It is acknowledged that the proposal would have no detrimental effect in relation to a range of matters such as living conditions and car parking but mere acceptability in these respects does not weigh positively in support of the extension.
28. The Council has raised no objections to the boundary treatment. The hedge would reinforce and enhance the verdant qualities of the streetscene in Bishops Road due to its extent and prominence. Moreover, it would comprise the majority of the frontage, having an appreciably greater length than that of the gates and piers combined. These are compelling factors that weigh particularly strongly in favour of this part of the overall scheme.

Conclusion

29. The proposed enlargement of the host dwelling would cause harm to the Green Belt as a result of inappropriate development and a loss of openness. In accordance with Paragraph 88 of the Framework substantial weight should be afforded to this harm. Due to the limited weight attached to them, it is concluded that the other considerations raised in relation to this development do not clearly outweigh its harmful effect.
30. There can, in consequence, be no very special circumstances and the proposed extension would be contrary to the Framework policies concerning the Green Belt. There would also be conflict with the relevant development plan policies. It is therefore determined that the appeal fails in relation to this part of the development.
31. The boundary treatment would cause harm to the Green Belt as a result of inappropriate development and this is afforded substantial weight. However, this is clearly outweighed in this instance by the other considerations I have identified above. Moreover, looking at this part of the scheme as a whole I take the view that very special circumstances exist which justify the proposed means of enclosure. In consequence this part complies with both the Framework and Policy GBC1. As this is clearly capable of being implemented independently of the remainder of the overall proposal a split decision is justified and the appeal succeeds in relation to the boundary treatment.

Conditions

32. In the interest of certainty a condition specifying the approved plans is needed. To ensure the landscaping enhancement is carried out a condition concerning the planting of the hedge is justified. A condition requiring the gates to open inwardly would be sufficient to protect highway safety, as suggested in the Council's report on the application.

M Evans

INSPECTOR