



Appeal Decision

Site visit made on 22 November 2017

by J Gilbert MA (Hons) MTP MRTPI

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

Decision date: 11th December 2017

Appeal Ref: APP/B1930/D/17/3181914
47 Bucknalls Drive, Bricket Wood AL2 3XJ.

- 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 Richard and Catherine Wells against the decision of St Albans City & District Council.
 - The application Ref 5/17/0933, dated 31 March 2017, was refused by notice dated 21 July 2017.
 - The development proposed is erection of an ancillary granny annexe.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - (a) whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - (b) the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it, and on the character and appearance of the area; and
 - (c) if the proposed development would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

- (a) *Whether the proposed development would be inappropriate development in the Green Belt*
3. The residential property at 47 Bucknalls Drive is sited within a small cul-de-sac to the rear of properties on Bucknalls Drive. The house and its garden are located within the Metropolitan Green Belt. The existing house at No 47 is a large detached chalet bungalow with 2 front gables, a pitched gable ended roof, and a number of rear dormer windows. Adjacent to the existing house, a single-storey garage building lies to the north, while a large pitched roofed double garage lies to the south. Within the large rear garden, there is a raised patio area adjacent to the existing house and a hardstanding to the south-east of the house in the rearmost corner of the garden. The rear garden is mostly

laid to grass with some large trees and hedging and shrubs along the side boundaries. The rear boundary of the garden lies adjacent to a heavily wooded area, while the southern side boundary adjoins grassland which forms a gap between the rear gardens of Nos 47 and 55.

4. Policy 1 of the City and District of St Albans District Local Plan Review 1994 (the Local Plan) states that permission will not be given within the Green Belt for development for purposes other than those which it lists, unless very special circumstances exist. It does not refer specifically to garden outbuildings or annexes. Policy 12 of the Local Plan confirms that within the Green Belt, separate dwellings for relatives will not normally be permitted and extensions to existing dwellings will be considered under Policy 13, which relates to the extension or replacement of dwellings in the Green Belt. It advises that extensions to houses in the Green Belt, including garages or outbuildings, may be permitted unless the scale or visual impact upon the building as originally constructed would create a building of significantly larger or different character.
5. The Local Plan considerably predates the Framework and policies 1 and 12 are not consistent with paragraph 89 of the Framework. Thus, in line with paragraph 215 of the Framework, I afford Local Plan policies 1 and 12 limited weight insofar as they deal with exceptions to inappropriate development in the Green Belt, specifically in relation to the extension or alteration of buildings. While both the Council and the appellants refer to the need to consider paragraph 14 of the Framework in terms of the fourth bullet and first indent, I have considered the proposed development with regard to the fourth bullet and second indent as specific policies in this Framework indicate development should be restricted. Footnote 9 of the Framework gives examples of specific policies which indicate that development should be restricted. These examples include Green Belt. I have therefore applied paragraph 89 of the Framework in determining this appeal.
6. The appellants have referred to the existence of a 2004 Supplementary Planning Guidance (SPG) on Residential Extensions and Replacement Dwellings in the Green Belt. The Council has not referred to this SPG in reaching their decision and it has not been provided to me. As such, and noting that the Council confirmed to the appellants that the SPG is not consistent with the Framework, I have not considered this SPG in reaching my decision.
7. The Council considers that the proposed development would not constitute an extension to the existing house and would not therefore fall within the list of exceptions set out in paragraph 89 of the Framework. The appellants have disputed this, describing the proposed development as an annexe which should be viewed as an extension to the host property. The appellants' personal circumstances, shared access and address, parking, utility meters, and shared garden space are all identified as giving the proposed development the characteristics of an extension with a strong relationship with the existing house.
8. Case law has confirmed that an extension to a building is capable of including the erection of a detached outbuilding as a normal domestic adjunct to the dwelling. Whether the erection of an ancillary building within the residential curtilage should be viewed as constituting an extension to the dwelling is a matter of fact and degree in every case. There is no specific guidance in the Framework on the criteria to be used in such an assessment.

9. The proposed development would involve the construction of a single-storey building of approximately 6m in depth to its maximum extent, approximately 11 metres in length, and approximately 4.16m in height to the highest point of the roof. It would comprise a kitchen and living area, 2 bedrooms and a bathroom. The building would serve as an annexe to the existing house at No 47 and would be sited at the south-eastern corner of the rear garden where the existing hardstanding lies.
10. According to the Council, the proposed development would be approximately 25m from the existing house at No 47. Located adjacent to the side and rear boundaries of the rear garden and adjacent to the woodland beyond the appeal site, there would be considerable physical separation between the proposed development and the existing house. While it would have a simple form and detailing in common with the existing house and I note the various functional links raised by the appellants, it would be capable of providing all the necessary facilities for everyday living and by reason of its distance from the existing house would not appear to be a domestic adjunct. As a matter of fact and degree, the proposed development would not therefore be an extension to the dwelling. The proposed development would therefore constitute the development of a building and would be inappropriate development which is, by definition, harmful to the Green Belt as set out in paragraph 87 of the Framework.
11. Even if I considered the proposed development as an extension, based on the Council's planning history and from the information provided in the appellants' statement, I have insufficient information on the size of the original dwelling and the existing extensions to the house to show whether the extensions would represent disproportionate additions over and above the size of the original building.
12. The hardstanding, which provided the base for a now demolished doghouse, and the proposed development are not of the same footprint as the hardstanding appears to have the approximate footprint of a single garage. Furthermore, the fourth bullet of paragraph 89 of the Framework refers to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. This would not be the case as the doghouse no longer exists.
13. With regard to an outbuilding of similar dimensions being capable of being built under Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015, the appellants have confirmed that they are aware the proposed development would not fall within permitted development. I also note the appeal decision¹ which refers to a fallback position under permitted development rights, but the 2 appeals do not have similar site-specific circumstances. I therefore give this very limited weight as a potential fallback position in this instance.
14. For all the above reasons, the third bullet point of Paragraph 89 does not apply. I do not consider that any of the other exceptions in Paragraph 89 apply. Accordingly, the proposed development would comprise inappropriate development in the Green Belt.

¹ APP/L5240/A/13/2209293, decision issued 18 March 2014.

(b) Effect on the openness and purposes of the Green Belt and on the character and appearance of the area

15. Paragraph 79 of the Framework states that openness is an essential characteristic of the Green Belt. The proposed development would lead to the insertion of built development within the rear garden of No 47, which would cause a slight reduction in the open nature of the large rear garden. However, in isolation, the loss of openness would be minimal.
16. The Council considers that the proposed development would not be subservient to the existing house and that it would not promote or reinforce the distinctive character of the area. I do not concur with this view. While the existing house is detached and lies within a 1990s development of detached one and half-storey houses to the rear of the main part of Bucknalls Drive and adjacent to a similar development on Enid Close, its distinctive features are its size and simple materials, with red brick to the ground floor level and render on the front gables at first floor level.
17. The proposed development would be of a suitable design and height relative to the existing house, would be subordinate to the existing house in its size, and would not be particularly visible from the vehicular access into the cul-de-sac or from neighbouring properties. Consequently, I consider it would accord with policy 69 and 70 of the Local Plan and the Framework, which, amongst other things, require development to have a high standard of design and take account of their context and its character. The appellants have referred to policy 72 of the Local Plan, which relates to extensions. As I have noted above that the proposed development would not constitute an extension, I have not applied policy 72 in this instance.

Other Considerations

18. The appellants wish to construct the proposed development to meet the needs of their extended family, who may need to live at the appeal site in the future. However, while I have given consideration to the information provided on the appellants' personal circumstances, there is no indication of any immediate need. I am mindful of the advice contained in Planning Practice Guidance that in general planning is concerned with land use in the public interest². It is probable that the proposed annexe buildings would remain long after the personal circumstances cease to be material. I do not consider that these personal circumstances outweigh the harm which would be caused by the proposed development.
19. The appellants have observed that providing affordable and sustainable accommodation for elderly family members is a benefit, which allows houses to be freed up and releases financial assets, limits social isolation and improves quality of life, and reduces burdens on health services through less frequent and shorter stays in hospital. Furthermore, they note that efficient use would be made of land, the proposed development would be well-insulated, and that the construction industry would benefit from the construction process of the proposed development.

² Paragraph: 21b-008-20140306 (What is a material planning consideration?)

20. Two appeal decisions³ provided relate to similar buildings to be used as annexes within the same district. As the Inspector in the 347 Hatfield Road decision comments, the acceptability in any one case is dependent not only on national and local policies, but also on the individual circumstances that apply in the particular proposal. I am satisfied that the appeal decisions at 347 and 474 Hatfield Road are distinct from the appeal before me and are not of central relevance to this appeal.
21. Although the appellant has referred to a large outbuilding at No 55, I do not know the planning history of the outbuilding and have been provided with no specific evidence in that regard. Consequently, I can only give it very limited weight.
22. The appellants consider that the proposed development would not harm the living conditions of neighbouring occupiers with regard to overlooking, overshadowing, and noise. I concur with this view, but consider that this would not be a benefit to be afforded weight, but would represent a neutral factor in the overall balance.
23. I note the condition proposed by the Parish Council to restrict use of the proposed development, and recognise that the appellants have also confirmed their willingness for the use of the proposed development as an annexe to be addressed by means of condition, thereby restricting its use as a separate dwelling.
- (c) If the proposed development would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.*
24. The proposed development would be inappropriate development and the Framework establishes that substantial weight should be given to any harm caused to the Green Belt. The proposal would lead to a minimal loss of openness, but would cause no harm to the character and appearance of the area.
25. I have considered the personal circumstances in support of the appeal scheme but for the reason explained I give these only limited weight and they do not clearly outweigh the totality of harm that I have identified in relation to the Green Belt.
26. Cumulatively, the other considerations put forward in favour of the proposed development have some weight, albeit very limited. However, they do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the development would not accord with the aims of policy 13 of the Local Plan to restrict development in the Green Belt. The proposal would also not comply with the policies of the Framework, specifically Section 9 on protecting Green Belt land. Given that I have found above that the Framework's policies relating to Green Belt indicate that development should be restricted, the presumption in favour of sustainable development does not apply to this appeal.

³ APP/B1930/D/15/3005098, decision issued 26 May 2015, and APP/B1930/A/10/2124995, decision issued 29 July 2010.

Conclusion

27. For the reasons given above, and having taken into account all other matters raised, the appeal should be dismissed.

J Gilbert

INSPECTOR