

Appeal Decision

Site visit made on 15 May 2019

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Appeal Ref: APP/N1920/W/19/3220480

8 Hamilton Close, South Mimms, Potters Bar, Hertfordshire, EN6 3PG

- 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 DS Ergonomics against the decision of Hertsmere Borough Council.
 - The application Ref 18/2097/FUL, dated 22 October 2018, was refused by notice dated 18 December 2018.
 - The development proposed is the removal of existing roof structure, formation of new roof structure and conversion into 4 flats with associated off street parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application site lies within the designated Green Belt (GB) and the South Mimms Conservation Area (CA).
3. Reference has been made to a previous appeal affecting the site¹. The appeal was allowed and the permitted scheme involved internal and external alterations and conversion of the appeal property from offices to 4 flats. Given that it is recent, and the permission granted acts as the appellant's fall-back, the decision is material to my considerations attracting significant weight.

Main issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the GB;
 - The effect on the GB's openness;
 - The effect on the living conditions of neighbouring occupiers with reference to privacy, and
 - If the proposed development would be inappropriate development, 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 proposed development.

¹ Ref APP/N1920/W/18/3196981, dated 6 June 2018.

Reasons

Inappropriate development

5. Policy CS13 of the Council's Local Plan – Core Strategy (CS) presumes against inappropriate development in the GB, but defers to the Framework² in assessing the acceptability or otherwise of schemes involving previously developed land and buildings, such as the appeal property.
6. The Framework provides that the construction of new buildings should be regarded as inappropriate in the GB, but exceptions to this are set out at its paragraphs 145 & 146.
7. The previous appeal scheme was allowed having particular regard to the exception now set out at paragraph 146(d) of the Framework. This exception relates to the re-use of buildings provided that the buildings are of permanent and substantial construction, and provided that the development preserves the GB's openness and does not conflict with the purposes of including land within it. The Council says that this exception does not apply to the current appeal scheme since the roof alterations and extensions proposed significantly increase the bulk of the building, thus harmfully affecting the GB's openness.
8. But since the current proposal to re-use the building includes extensions and alterations, it also stands to be considered under the terms of the exception set out at paragraph 145(c), which relates to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. There is no requirement under this exception that the building should remain in the same use.
9. The term 'original building' for the purposes of the Framework means a building, as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally. The term 'disproportionate additions' is not defined in the Framework, and is a matter for planning judgment.
10. The appellants refer to the building as a former telephone exchange, since converted into offices. Judging from its appearance, the original building was built after 1948. The appellants confirm that a large single storey rear extension was granted permission in the early 1990's, and, as I saw, this has been built.
11. The appellants calculate that '*the increase in cubic capacity of the proposed building over and above that approved is 20%.*' However, given the terms of the exception provided in the Framework's paragraph 145(c), this is not the appropriate test of the scheme's acceptability.
12. Notwithstanding the description of the proposal, the appellant intends to create what amounts to a new first floor to the building including building above the extant single storey elements. Taking account of the size of the original building and the cumulative effect of the previous large ground floor extension, the current proposal would in my view contribute to disproportionate additions to the original building, both in terms of increased volume and floorspace.
13. Accordingly, I conclude that the proposal would be inappropriate development in the GB. By definition, as per paragraph 143 of the Framework, inappropriate development is harmful to the GB. Further, paragraph 144 states that

² National Planning Policy Framework 2018

substantial weight should be given to any harm to the GB. A clear conflict therefore arises with those provisions of the Framework already referred to.

The Openness of the GB

14. The proposal would involve the addition of a sizeable amount of new floorspace at first floor level and would add significant bulk and mass to the roof, noticeably increasing the building's overall presence.
15. The Framework states that: "*the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*" It has been established that openness has both a spatial and visual aspect. Taking into account both the above and how visible the roof additions would be, the appeal scheme would unavoidably reduce openness in both aspects. The proposed development would therefore conflict with one of the fundamental aims of national policy in respect of the GB. This would represent further harm to the GB, in addition to that caused by the appeal scheme's inappropriateness, and this attracts substantial weight against the scheme.

Living conditions

16. The Council's concerns centre on the potential loss of privacy to the occupiers of 32 Blanche Lane as a result of overlooking from two proposed windows set in the new first floor. I saw that the two proposed eastward facing first floor windows would directly overlook the rear of No 32's curtilage from an elevated position at fairly close quarters. Accordingly, the privacy levels currently enjoyed by the occupants of the neighbouring property would be materially harmed contrary to the provisions of DMPP Policy SADM30 which seeks to protect neighbouring amenity. This attracts significant weight against the scheme.
17. In acknowledgment of the Council's concerns, the appellants suggest the removal of one of the windows, that serving the lounge. Since the lounge would be served by another window, this should partly overcome the problem, but I am required to determine the appeal on the basis of the unamended plans before me. In respect of the bedroom window, the appellants suggest that it could be obscurely glazed. However, this would leave the occupants of the bedroom, a habitable room, without an outlook, which I do not consider as a desirable or acceptable solution to the problem of unacceptable overlooking.

Other considerations

18. I share the Council's assessment that the existing building does not make a positive contribution to the character and appearance of the conservation area and surrounding street scene. Standing at the entrance to a small residential cul-de-sac it is unattractive in terms of its appearance and non-conforming in terms of its use.
19. I acknowledge the Council's point that the proposals would add bulk to the roof, but the proposed alterations, which are not in my view badly designed, would result in the building being perceived as a residential rather than a commercial development, consonant with its immediate neighbours. To this extent the character of the CA would be enhanced.

20. Accordingly, no material conflict arises with those provisions of Policy CS14 of Hertsmere's Core Strategy (CS) and Policy SADM29 of the Site Allocations and Development Management Policies Plan (DMPP) which seek to ensure that development proposals protect or enhance heritage assets through sensitive design.
21. In applying the parking standards set down in its Supplementary Guidance, the Council considers that the development would be short of three parking spaces. In its' view the parking demand created by the proposal would overspill onto the highway outside, creating difficulties for road users and pedestrians.
22. This matter was also raised in the previous appeal, and I note my colleague's conclusions. It appears to me, notwithstanding the shortfall in on-site parking provision, that insufficient account has been taken of the parking demand generated by the existing use. During my visit, I saw that all on-site parking spaces within the appeal site were fully utilized and that cars owned by the appellant's employees were parked in the highway outside the site, as were commercial vehicles calling at the property. To my mind, the proposals in highway terms, would not materially alter existing conditions in the street outside.
23. I have considered the representations made by local residents and have already dealt with the main planning-related points raised.

Conclusions

24. I have found harm to the Green Belt in terms of the proposed development being inappropriate; it would adversely affect both the visual and the spatial aspects of its openness and conflict with the purposes of including land within it. As I have explained, these harms should be ascribed substantial weight. I have also found that significant harm would arise from the loss of privacy caused to the occupiers of a neighbouring residential property.
25. In terms of other considerations, including conservation and highway issues, I have not found anything suitably compelling that could weigh against the harms. Indeed, they are matters on which the scheme would be acceptable or where there would be a lack of harm. As a consequence, the very special circumstances that are required to justify the proposed development have not been demonstrated.
26. Having regard to all other matters that have been raised, it is for the reasons I have set out above that the appeal is dismissed.

G Powys Jones

INSPECTOR