



Appeal Decision

Site visit made on 17 July 2019

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2019

Appeal Ref: APP/J1915/D/19/3228082

Tollgate House, Amwell Hill, Great Amwell SG12 9QZ

- 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 Ross Newham against the decision of East Hertfordshire District Council.
 - The application Ref 3/18/1761/HH, dated 27 July 2018, was refused by notice dated 11 February 2019.
 - The development proposed is a ground floor and basement extension to side and rear of existing dwelling following demolition of outbuildings and replacement of existing retaining Wall.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues of this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy,
 - its effect on the openness of the Green Belt; and
 - if the development is inappropriate, 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

Whether the proposal would be inappropriate development in the Green Belt

3. The appeal site is a Grade II listed detached dwelling with outbuildings, situated on a large plot with varying ground levels, located within the Green Belt. The proposal involves the removal of existing single storey outbuildings and the construction of a ground floor and basement side and rear extension.
4. Section 13 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It states that construction of new buildings should be regarded as inappropriate in the Green Belt, except for listed exceptions. This includes extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building.

Policy GBR1 of the East Herts District Plan 2018 (the District Plan) states that planning applications within the Green Belt will be considered in line with the provisions of the Framework.

5. The Framework defines “original building” as a building as it existed in July 1948 or, if constructed after that date, as it was originally built. There is no definition within the Framework as to what would constitute a disproportionate addition and I have not been made aware of any within the District Plan. The dwelling does not appear to have been the subject of any extensions since 1948.
6. The Council has calculated that the proposal for the ground floor and basement side and rear extension would, when taking into account the demolition of the existing lean-to structure, lead to an approximate 141% increase in the size of the dwelling. The appellants floorspace figures vary from the Council’s, and calculate that the proposal would result in a 120% increase. As both indicate a substantial increase in the floorspace of the existing building and I have nothing before me that would enable me to decide which is the more accurate, I have determined this appeal on the basis of the plans submitted and the apparent scale of the proposal in relation to the existing dwelling.
7. The Framework sets out that the extension or alteration of a building is not inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building. The Framework concerns itself primarily with the size of original building rather than qualitative considerations, this is an important distinction in the context of what could be regarded as inappropriate development in the Green Belt. I have, therefore, given substantial weight to substantial increase in floorspace indicated by both parties when considering whether the proposal is a disproportionate addition over and above the size of the original building.
8. I have not been provided with any volumetric measurements. However, without any specific national or local guidance on the matter, the mathematical calculations of both parties on floor area point me to a situation where the scheme would clearly result in disproportionate additions over and above the size of the original building.
9. In support of their views in this regard the appellant has directed me to a planning permission issued in an appeal decision¹ in 2018 , for, amongst other matters, the basement extension of a detached dwelling, where the inspector found that the proposal would not be inappropriate development in the Green Belt. Based on the figures given in the appeal decision, this development involves a small basement that forms a significantly smaller element of the 103% increase in the floorspace of the original building than that in the appeal proposal. However, the inspector’s decision also referred to another appeal decision², likewise provided to me by the appellant where a proposed large basement that would form a significant element of the proposed 210% increase in the floorspace of the original. Whilst there are similarities with the appeal proposal, in that it involves basement extensions, in my determination of this appeal I have, given this little weight in my considerations and have determined the proposal on its own individual merits.

¹ Appeal Ref: APP/J1915/D/18/3209661

² Appeal Ref: APP/J1915/D/17/3166395

10. The outbuildings that would be removed as part of the proposal are secondary buildings separate to the house on the plot, they do not, therefore form part of the original house for the purposes of considering whether the proposal would amount to disproportionate additions.
11. When considered on its own, the proposed ground floor part of the proposed extension would not be a disproportionate addition over and above the size of the original building and it would not be, as defined by the Framework, inappropriate development in the Green Belt. The Council in granting planning permission Ref 3/18/1763 for the Ground Floor extension has also acknowledged this. It is therefore the effect of the basement element of the proposal in addition to the side and rear extension that needs to be considered.
12. Notwithstanding the Appeal Court Decision³ brought to my attention by the appellant concerning interpretation of meaning of previously developed land in the Framework, the Appeal Court has also issued a decision⁴ that determined that the 'village' in paragraph 89 of the Framework need not be the same as the settlement boundary, depending on the situation 'on the ground'. This is, therefore, a matter for my planning judgement based on consideration of matters affecting the proposed development.
13. Although the appeal site is outside of the Council's defined settlement area boundary of Great Amwell, it is surrounded by other detached houses on large plots and does in my view form part of the built-up area of the village and is, for this reason, previously developed land. It would not, therefore, benefit from the listed exemption in paragraph 145 of the Framework for limited infilling or the partial or complete redevelopment of previously developed land, the definition of which excludes private residential gardens.
14. As the proposed development of basement extension would not infill a space between buildings or structures within the village, it would also not benefit from another listed exemption in paragraph 145 of the framework for limited infilling in villages.
15. Taking all of the above in to account I find that the proposal would result in a disproportionate addition over and above the size of the original building.
16. For the reasons given above, I conclude that the proposal would not benefit from any of the listed exceptions and can therefore be regarded as inappropriate in the terms of Paragraph 145 of the Framework. It would, therefore, conflict with Policy GBR1 of the District Plan or with Chapter 13 of the Framework.

The effect of the proposal on the openness of the Green Belt

17. Paragraph 133 of the NPPF makes it clear that an essential characteristic of Green Belts is their openness, and the primary purpose of Green Belt policy is to prevent urban sprawl by protecting these characteristics.
18. The Council has indicated that the excavation for the basement extension and the demolition of the existing outbuildings would result in a slight net increase in openness on the appeal site. Accordingly, the proposal would not result in a loss of openness and, therefore no harm to the openness of the Green Belt.

³ Dartford Borough Council v SSLG [2017] EWCA Civ 141

⁴ Julian Wood v SSCLG & Gravesham Borough Council [2015] EWCA Civ 195

Other Considerations

19. The scale of the proposed side and rear extension would be subordinate to the scale of the existing building and its design would complement that of the host dwelling. Whilst the basement extension would be fundamentally hidden from view and have a minimal effect on appearance of the host dwelling, it would, however, significantly alter its character, but not cause harm. The proposal would, therefore, be in keeping with the character and appearance of the host dwelling and that of the local area.
20. Notwithstanding the views expressed by the local Estate Agent in their letter submitted by the appellant, it is clear that, although the proposal would appear to add potential sale value of the property, the property is already of substantial value. I do not conclude, therefore, that an estimated potential increase in market attractiveness and value would add to the viability of the heritage asset in this instance, as the appeal property is clearly an attractive house on a large plot in what appears to be a successful and sought after residential location.
21. Although the appellant has indicated that there is potential for the development to facilitate maintenance of the listed building and for the creation of level access to the property, this does not form part of the proposed development. I have not been made aware of any evidence as to the personal circumstances of the appellant in this regard, which could weigh in favour of the proposal in my considerations and I have, therefore, given this little weight.
22. Whilst the appellant has expressed their view that the existing dwelling does not currently provide for the needs of a large family this has been expressed in general terms with reference to the potential of the house in the local housing market. This is, however, true of smaller dwellings generally and I find that the existing dwelling would appear to provide usable and attractive accommodation for smaller households. I therefore attach little weight to this in my considerations.

Other Matters

23. The Council has given Listed Building Consent (ref: 3/18/1762/LBC) for the proposed development that is the subject of this appeal. In my consideration of this appeal I have had regard to my statutory duties under sections 66(1) and 77(1) Planning (Listed Building and Conservation Areas) Act 1990 and find that the proposal does not harm the listed building or its setting.

Overall Balance and Conclusion

24. I have concluded that the proposal is inappropriate development that, by definition, would harm the Green Belt. Paragraph 144 of the Framework requires substantial weight to be given to any harm to the Green Belt.
25. Policy GBR1 of the District Plan and Paragraph 143 of the Framework, set out the general presumption against inappropriate development within the Green Belt. They state that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.

26. It is acknowledged that the appellant has sought, by reducing the scale of their proposal for the basement part of the proposed extension, to overcome the concerns expressed by the Inspector that determined the appeal⁵ for the previous application to extend the building in this manner. I find, however, that the proposal has not overcome the previous objections.
27. The demolition of the existing outbuildings would result in a slight increase in openness of the Green Belt, which adds a little weight in favour of the proposal. When taken with the other considerations above these would collectively clearly not outweigh the totality of harm that I have identified and, therefore, the very special circumstances necessary to justify the proposal do not exist. Consequently, the appeal scheme would be in conflict with Policy GBR1 of the District Plan and the Framework. Accordingly, for the reasons given, the appeal should not succeed.

Victor Callister

INSPECTOR

⁵ Appeal Ref: APP/J1915/D/18/3212432