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## Appeal Decision

Site visit made on 7 January 2020

**by M Allen BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 February 2020**

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**Appeal Ref: APP/B1930/W/19/3231430**

**Hoofprints Cottage & Hoofprints Annexe, Lye Lane, Bricket Wood, St Albans, Hertfordshire AL2 3TW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Andrew and Mr Edward Connors against the decision of St Albans City & District Council.
  - The application Ref 5/18/2227, dated 8 August 2018, was refused by notice dated 20 December 2018.
  - The development proposed is the demolition of annexe and residential extensions, and erection of replacement two-storey dwelling with a maximum eaves height of 4.9 metres and a maximum ridge height of 7.5 metres.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline. The application form indicates that approval was sought for the matters of layout and scale. I have determined the appeal on this basis.

### Main Issues

3. The main issues raised in this case are:
  - Whether the proposal would be inappropriate development in the Green Belt
  - The effect on the openness of the Green Belt, and
  - Whether any harm by reason of inappropriateness or any other harm would be clearly outweighed by other considerations that would amount to the very special circumstances required to justify the development.

### Reasons

*Whether the proposal would be inappropriate development in the Green Belt*

4. The appeal site is located in the Green Belt. Policy 1 in the St Albans Local Plan Review (1994) indicates that development in the Green Belt should only be permitted in very special circumstances save for a limited number of purposes. Policy 13 allows for the replacement of dwellings, including those that have

been demolished, subject to a number of provisions. Paragraph 145 of the National Planning Policy Framework (the Framework) includes a similar provision but does not endorse the replacement of a building that no longer exists. In such circumstances Policy 13 is not consistent with the Framework.

5. At the time of my site visit, the annexe, which previously occupied a location to the front of the existing dwelling, had been demolished. I note the appellants' comments about the lawfulness of the use of the annexe as a separate unit of accommodation. However, there is no Certificate of Lawfulness provided to show that this was the case. The information that some Council Tax was paid on the annexe from 2014 to 2017 is insufficient to satisfy me that the building was occupied lawfully as a separate dwelling. Furthermore, there is no satisfactory indication of when the building was demolished.
6. Even if the annex was found to have been a lawful residential unit it does not exist now. Furthermore, the new dwelling is proposed on adjoining land. There is no evidence to substantiate the Appellant's contention that this was part of the garden to the annex and, even if it was, it is clear that this is not now. The site of the proposed dwelling forms part of a hard-surfaced vehicular access to a neighbouring residential unit.
7. For all of these reasons, the scheme would comprise inappropriate development, which paragraph 143 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

#### *The effect on openness*

8. Paragraph 133 of the Framework indicates that openness and permanence are the essential characteristics of the Green Belt. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development.
9. Given that the previous annexe has been demolished and that there is no building present on the proposed site for the dwelling, the baseline for considering the effect on openness must be that of an empty, undeveloped site. On this basis, the scheme for the proposed dwelling would result in a considerable loss of openness. I note the comparison that the Appellant has made between the size of the annex and that of the new dwelling. I also note references to the demolition of extensions to the rear of the existing dwelling. However, these matters are immaterial in the circumstances prevailing in this case.

#### *Other considerations*

10. The appellant also contends that the proposal would comply with a further exception provided by paragraph 145 of the Framework. This allows limited infilling or the partial or complete redevelopment of previously developed land. However, regardless of whether either of these circumstances would be met, the provision requires that there should be no substantial harm or greater impact on the openness of the Green Belt. For the reasons I have given above that would not be the case here.
11. The appellant contends that the proposal would be of a modest scale and would integrate acceptably with its surroundings. Whilst I do not disagree, these

matters refer to a lack of harm of the proposal, rather than positive benefits. As such, they weigh little in favour of the scheme.

## **Conclusion**

12. The proposal would be inappropriate development, which is by definition harmful to the Green Belt. The Framework establishes that substantial weight should be given to this harm. The development would also lead to a substantial loss of openness of the Green Belt. There are no other considerations in this case that would amount to the very special circumstances necessary to justify the development. The proposal would thus be contrary to the guidance of the Framework in respect of Green Belts.
13. In terms of Policy 13 in the St. Albans District Local Plan Review (1994), it does not seem to me that the siting of the new dwelling on adjoining land would meet the requirement of provision a) regarding proximity. In any event, for the reasons already given I do not consider that the provisions of this policy are fully consistent with the Framework. Even if the proposal did comply with its requirements, the conflict with Framework policy is sufficient to indicate that there are material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan in this case.
14. Therefore, for the reasons given and having regard to all matters raised, I conclude that the appeal should be dismissed.

*Martin Allen*

INSPECTOR