
Appeal Decision

Site visit made on 28 January 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 June 2020

Appeal Ref: APP/C1950/W/19/3241749

West End Farm, West End Lane, Essendon, Hatfield AL9 6AZ

- 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 Andy Payne against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2019/2229/HOUSE, dated 6 September 2019, was refused by notice dated 12 November 2019.
 - The development proposed is erection of pool house.
-

Decision

1. The appeal is dismissed.

Procedural Issue

2. The procedure for the appeal changed following the site visit from a householder to written representation.
3. The Council have referred to emerging policies SP3 and SADM34 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 in the refusal reason. Whilst I have had regard to these, as this plan has yet to be adopted, I give the policies only limited weight in this appeal decision

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework, 2019 (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

5. The appeal site is garden land that was previously occupied by a substantial two storey dwelling and outbuildings. This dwelling has now been demolished and at the time of the site visit the replacement dwelling which was granted planning permission in 2016¹ was under construction. Several

¹ 6/2016/0890/FULL

outbuildings/structures remain on the site including the pool. The proposed development would consist of a single storey detached building as a pool house to the southern boundary of the appeal site.

Inappropriate Development in the Green Belt

6. The Framework sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt should be regarded as inappropriate development, unless it meets one or more of a list of exceptions.
7. Saved Policy GBSP1 of the Welwyn Hatfield District Plan 2005 (DP), sets out the purposes of the Green Belt and that it will be maintained. However, it is inconsistent with the Framework in so much as it does not list any of the exceptions to inappropriate development.
8. Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. Paragraph 145 d) considers that the replacement of a building in order to be 'not inappropriate' must meet the two tests, '*provided the new building is in the same use and not materially larger than the one it replaces*'. In this case, the plans clearly show that an existing pool house and gazebo would be removed and at the time of the site visit it was still in existence. The proposed replacement pool house would be constructed of a substantial size and located in a different position, further away from the dwelling. Therefore, the proposed building would be materially larger, in terms of height, footprint and cubic volume than the existing pool house and gazebo.
10. The Council's evidence is not conclusive on the reasons for comparisons of size, height and footprint and appears to place the emphasis on the pre-existing dwelling, (as it existed prior to its demolition) than the dwelling under construction and those existing buildings that remain on the site, including the pool house, of which the proposal would replace.
11. However, if there is no building currently existing on site, in this case the reference to the pre-existing dwelling, it cannot be assessed whether or not the proposed replacement building would be materially larger than the existing building to be replaced (the baseline), and paragraph 145 d) of the Framework cannot apply if there is no building to be replaced².
12. Nonetheless, I acknowledge the Council's comparison with the pre-existing dwelling and that of the approved dwelling under construction, which has an increase in floor space and height than the previous dwelling. Therefore, taking into consideration the size and footprint of the proposed pool house building and the baseline for comparison, including the extent of physical built development and each of the building's relationship to each other on the site. There would be a significant increase in both the floor space and cubic volume of built development on the appeal site. Cumulatively it would significantly increase the quantum of built form and the proposal would amount to a materially larger building than the one it replaces.

² *Athlone House Ltd v SSCLG* [2015] EWHC 3524 (Admin)

13. The Framework does not make any specific reference to ancillary buildings. The appellant contends that the principle of development and the proposal should be viewed as an extension to the dwelling. Therefore, as outbuildings are buildings paragraph 145 c) should logically apply to the appeal proposal where an extension or alteration to a building is not inappropriate development provided it does not result in disproportionate additions over and above the size of the original dwelling.
14. Although, case law³ has established that a domestic outbuilding could be regarded as part of the dwelling and, therefore, that an outbuilding could potentially be regarded as an extension to the dwelling, this is a matter of fact and degree. It appears from the evidence before me that both parties do not agree that it would form a 'normal domestic adjunct' as the Council are concerned with the distance of it being located at approximately 17 metres from the dwelling.
15. Furthermore, in this case, there would be no physical attachment between the proposal and that of the dwelling and it would be a considerable distance away. There would be little visual or functional relationship between them, given the proposed building would be standalone and detached. The primary function of the building, as the appellant indicates would be to enable the pool to be useable. In coming to this view, I have also taken into consideration the function of the building having a plant room, separate changing facilities and pool furniture storage/bar and the overall purpose and independence of that building associated to the pool use. Therefore, the proposed pool house building could not reasonably be regarded as an extension to another building or to the original dwelling, and/or the dwelling currently under construction.
16. Notwithstanding the above, even if I were to consider it was regarded as an extension to the dwelling, the Framework does not define the term of disproportionate. The replacement dwelling on the site would be a significant size than the previously one it replaced, and the proposed development would add further built development at the site and alone would substantially increase the floor space of that dwelling by some 50sqm. Therefore, in that regard, the proposed development would not be of a limited scale or a proportionate addition when comparing to the original dwelling.
17. For the reasons given above, I conclude that the proposed development would not comply with the exceptions as set out in paragraph 145 of the Framework, and as such, it would be inappropriate development in the Green Belt.

Openness

18. As set out in paragraph 133 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof being their openness and permanence. The physical presence of built forms may affect openness, which can also have a visual element.
19. The proposed pool house would be built on garden land to the south of the dwelling, it would result in additional built development and the loss of this garden area which would unavoidably result in a reduction of openness of the site.

³ Sevenoaks District Council v The Secretary of State for the Environment and Dawe [1997]

20. Furthermore, the appeal site is in a slightly elevated position in relation to the surrounding landscape to the south and west. This combined with the open character of the surrounding countryside, particularly that the appeal site can be viewed from along the footpath to the west means that the proposed pool house would be seen from both nearby and distant views. Despite, the existing boundary treatments the proposed pool house, given its substantial size, massing and prominent position would still be readily visible within the landscape. As a result, it would have a moderate detrimental effect on the open character of the area and would cause a reduction in the openness of the Green Belt.
21. Therefore, I conclude that the proposed development would not preserve, and would have a harmful effect on, the openness of the Green Belt. It would be contrary to Saved Policy GBSP1 of the DP, 2005 and the Framework, 2019, which aim to protect the openness of the Green Belt.

Other Matters

22. I have also had regard to the appeal decisions which have been brought to my attention⁴, but the individual circumstances of those cases differ from the proposals before me, including that one was for a dependant relative annexe, some 6m away from the original dwelling, and the other for a retrospective proposal of a car port, some 56m away from the dwelling. Accordingly, their circumstances are not directly comparable with those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me.

Conclusion

23. The appeal scheme is inappropriate development in the Green Belt. This is harmful by definition. The proposal would lead to an appreciable loss of openness to the Green Belt which gives rise to additional harm. In each case, these harms render the appeal scheme contrary to the aims of both the policies of the development plan, as I have identified them, and the relevant sections of the Framework.
24. Against this, the other considerations that have been advanced are not sufficient, either individually or cumulatively, to clearly outweigh the harm to the Green Belt and the other harm I have identified, the very special circumstances necessary to justify the development do not exist.
25. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR

⁴ APP/W0530/A/12/2188281, APP/C3620/D/13/2191786