



Appeal Decision

Site visit made on 22 June 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2020

Appeal Ref: APP/N1920/D/20/3247543

1 Medburn Cottages, Watling Street, Elstree, WD6 3AB

- 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 Carl Woolf against the decision of Hertsmere Borough Council.
 - The application Ref: 19/1615/HSE dated 7 October 2019, was refused by notice dated 3 December 2019.
 - The development proposed is described as demolition of existing 3295 mm rear conservatory and construction of new 2000 mm double storey rear extension.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As well as this appeal, I am also the Inspector for a separate appeal (Ref: APP/N1920/D/20/3247547) at the adjacent at No. 2 Medburn Cottages next door, relating to a proposal for the demolition of a conservatory and a new two storey rear extension. As Inspector for the other appeal I am aware of the details of that case and will have regard to it as appropriate.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt and on the character and appearance of the area;
 - the effect of the proposal upon the living conditions of the occupiers of No. 2 Medburn Cottages with particular reference to outlook and daylight; and,
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances necessary to justify it.

Reasons

Inappropriate development

4. The appeal site is one in a small row of dwellings in a largely open and rural landscape setting in the Metropolitan Green Belt. Paragraph 143 of the National Planning Policy Framework (February 2019) (the Framework) explains that inappropriate development is, by definition, harmful to the Green Belt. It should not be approved except in very special circumstances. Paragraph 145 c) lists an exception to inappropriate development, as the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. Another exception at 145 g) is the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt.
5. Policy CS13 of the Hertsmere Core Strategy (2013) (the CS) sets out a presumption against inappropriate development in the Green Belt. Policy SADM26 of the Hertsmere Site Allocations and Development Management Policies Plan (2016) (the SAP) requires proposals be assessed in accordance with CS13, and for compliance with a number of listed criteria. They include similar criteria to the Framework for the scale of development for an extension (ii) or redevelopment (iii). Policies SADM26 and CS13 are consistent with the Framework in so far as they require the application of national Green Belt policy to consider whether a development is inappropriate development.
6. For the purposes of paragraph 145 c) the Framework defines the original building as that as it existed on 1 July 1948 or as constructed if built afterwards. The Council's report lists various developments at the appeal site including a previous first floor rear extension (TP/00/0188) and a certificate of existing lawful development for a conservatory (19/1154/CLE). The appellant states the additions since 1948 are not substantial. However, in the evidence, the appellant has not provided all of the details of the previous additions or demonstrated or assessed their cumulative size. So, they have not provided adequate evidence to demonstrate their view of the previous additions.
7. The pair of semi-detached cottages (Nos. 1 and 2) exhibit symmetry to the front. However, No. 1 is considerably deeper to the side and rear due to single and two storey additions. The first floor and roof addition is of a greater width and depth than the original gable roofed first floor. From my visit the additions appeared to over double the floorspace on the first floor alone and add considerably greater volume due to the height and width of the roof. The proposed two storey rear extension would have a significantly larger size and volume than the conservatory. The increased depth of the dwelling would be such that the rear roof ridge would appear considerably longer than the original gable roof ridge. Having regard to the cumulative effects of previous additions, based upon the evidence before me, the development would appear to result in disproportionate additions to the original building. Therefore, in respect of paragraph 145 c) of the Framework it would be inappropriate development.

Openness and character and appearance

8. The Framework explains the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open (paragraph 133). It also states that one of the essential characteristics of Green Belts is their openness. The development would have a reduced footprint compared to the

- conservatory. However, it would be significantly larger in respect height and volume.
9. Due to boundary and on-site vegetation, a terraced pool, outbuilding, and garden wall, the single storey conservatory has a very limited visibility. However, the two-storey gable roof main dwelling is prominently visible in the local landscape. Due to its height, depth, volume and bulk the proposed development would be clearly noticeable as a significant addition that increases the depth and size of the main dwelling, particularly at first floor and roof level. The visual and spatial impact upon openness would be apparent from part of Watling Street (A5183) to south of the development. From this location it would also reduce the view into the open rural landscape. It would also be noticeable from parts of the expanse of open rural landscape to the west. Therefore, the development would appear a significant addition to the dwelling that would be harmful to the visual and spatial openness of the open rural character of the Green Belt.
 10. The appellant has provided details and extracts of a number of legal cases with reference to the Green Belt. In this particular instance, the visual perception and impact of this development does not reduce the spatial harm to the Green Belt¹. The extracts of appeal decision Ref: APP/C1950/W/19/3227024 appear to suggest it related to a building within an extensive equestrian complex with very limited visibility beyond the immediate area. It differs from the appeal proposal because in the context of this site and its surroundings it would be significantly visible as would its harm to openness.
 11. I note the appellant's summarisation of the Euro Garages case², the Turner case³, and the Supreme Court Judgement of Samuel Smith Old Brewery (Tadcaster)⁴. The latter judgement highlights that openness is not necessarily a statement about the visual qualities of land or implies freedom from development, in considering the materiality of an impact of a quarry extension. Having regard to the nature, character and context of the appeal site and surrounding area, the prominence of the existing dwelling and the scale and nature of the development, there is a clear significant visual and spatial harm to the openness of the Green Belt, due to the visibly larger and deeper dwelling. Whilst I note the references, they do not alter my conclusions in respect of the development.
 12. As a glazed single storey structure, the conservatory is not harmful to the host dwelling. The new extension would be a larger addition, that whilst increasing the size, bulk and massing, would be keeping with the character and appearance of the host dwelling. The development would have matched the rear of the neighbouring No. 2, if appeal Ref: APP/N1920/D/20/3247547 had been allowed. However, it has been dismissed. Therefore, this development would increase the perception of difference between the properties. On-balance, the development would have neutral effect on the character and appearance of the host dwelling. In this regard the development would be compliant with the relevant criteria of Policies SP1 and CS22 of the CS and SADM30 of the SAP and appears compliant with the relevant standards of the Hertsmere Planning and Design Guide (2006).

¹ Goodman Logistics Developments (UK) Ltd v SSCLG and Slough BC [2017] EWHC 947 (Admin)

² Euro Garages Ltd v SSCLG & Anor [2018] EWHC 1753 (Admin)

³ Turner v SSCLG and East Dorset Council [2016] EWCA Civ 466

⁴ R (Samuel Smith Old Brewery (Tadcaster) and others) v North Yorkshire County Council [2020] UKSC 3

13. However, the impact upon the openness of the Green Belt, would conflict with Policy CS13 of the CS and the Framework in so far as there is a presumption against inappropriate development. It would also conflict with principle (iv), and (i) and (ii) of the second criteria of Policy SADM26 of the SAP. These require the scale, height and bulk of development is not harmful to the openness of the Green Belt, not larger than the building it replaces, or is not cumulatively disproportionate to the original buildings. Therefore, if the development were to be considered as redevelopment of previously developed land under paragraph 145 g) of the Framework, it would result in a greater impact upon the openness of the Green Belt than the existing development, and it would be inappropriate development. Compliance with some criteria of SADM26, as suggested by the appellant, does not mitigate or override the harm I have outlined in respect of the other criteria.

Living conditions

14. There are no rear facing windows on the first floor of No. 2. On the ground floor, part of the kitchen is set within a structure made from glazing on almost the entirety of its depth, width and roof. This opens onto a wooden terrace. The reduced depth of the ground floor of No. 1 would have some benefits. Although the development increases the depth and bulk of the first floor that is visible through the roof of the kitchen, and the terrace. This would affect the amount of daylight received by the kitchen and terrace, and the outlook.
15. The kitchen benefits from an extensive western and northern outlook through a significant amount of ground floor glazing. The terrace and garden benefits from a similar outlook. This combined with the depth of both floors of the development including the decreased depth of ground floor accommodation, means that the terrace and kitchen would retain a sufficiently good level of outlook and retain a sufficient amount of daylight. Therefore, the proposed development would not result in harmful living conditions to the occupiers of No. 2, with regard to daylight or outlook.
16. For the reasons set out above the development would not conflict with Policies SP1 and CS22 of the CS, Policy SADM30 of the SAP or paragraph 127 f) of the Framework. Amongst other things, these require development provides useable places, a healthy living environment, and has an acceptable impact on the amenity of neighbouring occupiers, including in terms of outlook and light. The development might result in some technical conflict with guidelines in respect of light, outlook and the 45-degree rule set out in the Council's Planning and Design Guide (2006). However, there would be no harm from this conflict.

Whether very special circumstances exist

17. The appellant suggests the proposed development is such that it does not need to rely upon very special circumstances as it would not constitute inappropriate development. However, for the reasons set out above, I have found that it would constitute inappropriate development. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any identified harm to the Green Belt.
18. The development would result in some small benefit in respect of the provision of improved internal accommodation. However, the evidence does not suggest

the development is essential for the dwelling to be habitable. The development would appear to result in a neutral impact upon the character and appearance of the host dwelling. The degree of compliance with the relevant design and character policies is a neutral effect. Although it would be compliant the requirements of the Building Regulations, this would appear a small benefit. The development would be compliant in respect of surrounding vegetation, ecological interests, crime prevention, flood risk, and highway safety. The development would also maintain acceptable living conditions. These effects are neutral.

19. However, the factors and benefits set out by the appellant would collectively not clearly outweigh the harm identified to the Green Belt, which carries substantial weight, so as to amount to the very special circumstances necessary to justify the proposal. Therefore, the proposal conflicts with the development plan and the Framework in this regard, and material considerations do not lead me to a decision otherwise.

Conclusion

20. The proposed development would be contrary to the development plan and the National Planning Policy Framework as a whole, and there are no considerations, including the policies of the Framework, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR