



Appeal Decision

Site Visit made on 17 November 2020

by Paul Thompson Dip TRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2020

Appeal Ref: APP/J1915/D/20/3247062

Penrhyn, London Road, Spellbrook, CM23 4BA

- 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 Phil Neal against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/2289/HH, dated 10 November 2019, was refused by notice dated 24 January 2020.
 - The development proposed is balcony to bedroom at rear of the dwelling resubmission.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Procedural Guide Planning Appeals – England states that only the person who made the planning application can make an appeal. In this case, the appeal was lodged by Mr Imdad Hussain, whose agent has confirmed that the Council were informed during the course of the application that he was the applicant, but this was not updated. Be that as it may, as the appeal cannot technically be transferred to another person, it must continue in the original name of the applicant. I have therefore considered the appeal on this basis.
3. At the time of my site visit, I observed a balcony in situ on the site of the proposed balcony. This occupies a more extensive area across the rear of the property. I also observed a large balcony on supporting columns to the south façade and the pre-existing balcony to the rear northwest corner had been enlarged in a similar manner with supporting columns beneath.
4. The appellant has suggested that the balcony would be cantilevered, but this is not shown on the application drawings. The appeal process should not be used to evolve a scheme and it is important that I determine the appeal on the basis of what was considered by the Council and on which interested parties' views were sought. I have therefore dealt with the appeal on the basis of the development shown on the plans: IH001, IH002 and Drawing 1.

Main Issues

5. The main issues are: -
 - whether the development would be inappropriate development in the Green Belt;
 - the effect of the proposal on the openness of the Green Belt;

- the effect of the proposed development on the character and appearance of the existing dwelling; and
- if the development is inappropriate within the Green Belt, 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 required to justify the proposal.

Reasons

Inappropriate development

6. The National Planning Policy Framework 2019 (the Framework) sets out the Government's planning policies for England and is an important material consideration in all planning decisions. Paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Council's Local Plan¹, in Policy GBR1, requires planning applications within the Green Belt to be considered in line with the provisions of the Framework.
7. 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 exceptions. These include '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'.
8. The appeal concerns a detached two-storey house set within large grounds in the Green Belt. The application drawings suggest that the proposed balcony would be beneath the gable to the southeast corner of the rear façade, with supporting columns over an outdoor space beneath. There would be a short gap between it and a pre-existing balcony, situated on the roof of a solid ground floor area.
9. The Framework and the Council's Local Plan are silent on what constitutes disproportionate but I note that the appellant has not contested the Council's suggestion that the floor space of the original building has already increased by approximately 200%. The appellant has also not provided any calculations of the floorspace or volume increases of the building. Equally, the Council has clarified whether the previous increases in the size of the property shown on the application drawings have been approved. Nevertheless, the appeal property has clearly already been substantially increased in size, which would typically amount to disproportionate additions over and above the size of the original building.
10. The proposed balcony would not provide new internalised floorspace, but would create usable and enclosed outdoor floorspace for a first-floor bedroom above a similar area at ground floor. Given the extent of previous additions to the original building, the proposal would represent a further disproportionate addition to the original building.
11. In light of the above, I conclude that the proposal would constitute inappropriate development in the Green Belt, contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

¹ The East Herts District Plan (Adopted October 2018).

Openness

12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics thereof are their openness and permanence. The physical presence of built or other forms may affect openness, which can also have a visual element.
13. The appeal proposal would increase the volume and massing of the existing building and, in doing so, would result in a harmful loss of openness. This harm would be limited in both its spatial and visual contexts due to the scale of the proposal and its position to the rear of the appeal property. However, the proposal would, nevertheless, be contrary to the main aims of Green Belt policy at local and national levels, which I have set out above.

Character and appearance

14. Despite the use of frameless glass, the proportions of the proposed balcony would still be evident and it would not be positioned in a manner which would provide balance to the rear façade with the space either side of the doorway serving it. The application drawings also show the inner edge of the balcony and supporting column beneath would be situated between the void at ground floor, containing the doors serving the lounge. The balcony would therefore relate poorly to the fenestration of the dwelling, which would be harmful to its character and appearance.
15. I therefore conclude that the proposed development would have a harmful effect on the character and appearance of the existing dwelling. Hence, the proposal would be contrary to the design aims of Policies DES4 and HOU11 of the Council's Local Plan.

Other considerations

16. The evidence refers to a potential fallback option in the form of a garden pergola, which the appellant suggests would be more visible than the appeal scheme. However, there are no details of this alternative scheme before me, including whether it could be erected by exercising the appellant's permitted development rights. I cannot therefore be sure that it would be a realistic or probable alternative so I give limited weight to this as a potential fallback.

Conclusion

17. The appeal proposal is inappropriate development in the Green Belt. This is harmful by definition. The proposal would reduce the Green Belt's openness 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.
18. The harm to the character and appearance of the existing dwelling would also be contrary to relevant development plan policies.
19. Paragraph 144 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is 'clearly outweighed by other considerations.'

20. Against this, the other considerations that have been advanced are not sufficient to clearly outweigh the harm to the Green Belt and the other harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
21. The proposed development would be contrary to the development plan. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR