

Appeal Decisions

Site visit made on 18 May 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2021

Appeal A - Ref: APP/M5450/W/20/3258533

Pinn Cottage, Pinner Hill, Pinner HA5 3XX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Rizwan Akhtar against the Council of the London Borough of Harrow.
 - The application Ref P/1040/20 is dated 18 March 2020.
 - The development proposed is a two-storey side and rear extensions including an increase in roof height and including a front porch.
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Appeal B - Ref: APP/M5450/D/21/3269752

Pinn Cottage, Pinner Hill, Pinner HA5 3XX

- 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 Rizwan Akhtar against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/4300/20, dated 25 November 2020, was refused by notice dated 22 January 2021.
 - The development proposed is a two-storey side and rear extension, single storey side extension, including a new replacement garage.
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Decision – Appeal A

1. The appeal is dismissed and planning permission for the erection of two-storey side and rear extensions including an increase in roof height and including a front porch is refused.

Decision – Appeal B

2. The appeal is dismissed.

Procedural Matters

3. As set out above there are two appeals on this site. Whilst the appeal schemes differ, there are some similarities, with similar issues raised by the Council and for the same appellant. I have considered each proposal on its individual merits. However, to avoid duplication, I have dealt with the two appeal schemes together, except where otherwise indicated.
4. Appeal A, is against the failure to give notice within the prescribed period of a decision on an application for planning permission. Following the lodging of the appeal, the Council considered the application and indicated in its statement that they would have refused the application. I have used these details to formulate the main issues for Appeal A.
5. The London Plan 2021 (LonP) has been published by the Mayor during the

course of both appeals, replacing the London Plan 2016. The LonP comprises the spatial development strategy for London and is now part of the development plan, to which I attribute full weight to its policies. Both main parties have had the opportunity to comment on any implications for the appeals. Consequently, I will not prejudice either main party in taking the LonP into account in the determination of these appeals.

Application for costs

6. An application for costs was made by Mr Rizwan Akhtar in respect of Appeal A against the Council of the London Borough of Harrow. This application is the subject of a separate Decision.

Main Issues

7. The main issues of both Appeal A and Appeal B this appeal are:
 - i. whether the development would be inappropriate development in the Green Belt;
 - ii. the effect of the development on the openness of the Green Belt;
 - iii. the effect of the development on the character and appearance of the appeal site and the Pinner Hill Estate Conservation Area (PHECA), and the Harrow Weald Ridge Area of Special Character (HWRASC); and,
 - iv. if the development is inappropriate development in the Green Belt, 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

Inappropriate development in the Green Belt

8. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 145 of the Framework. One of the exceptions listed is for the extension of a building provided that it does not result in disproportionate additions over and above the size of the 'original building'.
9. The national policy advice in the Framework has to be read together with the relevant development plan, which in this case includes the Council's Core Strategy 2012 (CS) and its Development Management Policies 2013 (DMP). Also included is the LonP. CS Policy CS1.F sets out that the quantity and quality of the Green Belt shall not be eroded by inappropriate use or insensitive development. Similar Green Belt considerations are provided through DMP Policy DM16 and LonP Policy G2.

Appeal A

10. There is no definition within the Framework of 'disproportionate'. The Council's evidence on this matter in its statement advises that the host dwelling has

already been extended. The appellant asserts that the single storey rear outrigger on the host dwelling was initially erected as an air raid bunker during the Second World War, thus pre-dating 1948 and forming part of the original building for planning purposes. However, there is little evidence to substantiate this assertion. On the basis of the evidence that has been made available to me, I therefore find that on the balance of probabilities the gross internal floorspace (GIA) of the dwelling would increase in the region of 39%, as identified by the appellant, plus the area occupied by the single storey rear outrigger.

11. The proposed increase in the GIA of the host dwelling is notable in itself. However, the increase to the ridge height of the dwelling would contribute to a marked increase in the scale and mass of the existing dwelling. Therefore, in the absence of substantive evidence to the contrary, I find that the proposed development would significantly increase the size of the dwelling.

Appeal B

12. A different approach to the design has been applied to the proposed development under this appeal. However, no increase to the ridge height is proposed on this occasion. Nonetheless, the situation surrounding the existing single storey rear outrigger remains, and as in the case of Appeal A, there is little evidence to substantiate the assertion that this part of the existing dwelling should be considered as part of the original building. A judgment¹ has been drawn to my attention by the appellant, which I have taken into account as a material consideration in the determination of this appeal.
13. The appellant asserts that the increase in GIA would be 45%. However, in this instance external volume calculations have been provided, identifying that the host dwelling would increase from 811.44m³ to 1212.57m³, which equates to an approximate increase of 49%. Therefore, taking into account the existing single storey rear outrigger as an extension to the original building, and in the absence of substantive evidence to the contrary, I find that the proposed development would significantly increase the size of the dwelling.

Conclusions

14. For the reasons given above, the proposed development in both Appeal A and Appeal B would amount to disproportionate additions over and above the size of the original building, contrary to paragraph 145 of the Framework. Consequently, the proposals would constitute inappropriate development. Such development would, by definition, be harmful to the Green Belt as described in paragraph 143 of the Framework. Consequently, the proposed development in both Appeal A and Appeal B would be at odds with CS Policy CS1.F, DMP Policy DM16, LonP Policy G2 and the Framework in this regard.

Green Belt openness

15. Paragraph 133 of the Framework advises that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. It also advises that the essential characteristic of Green Belts is their openness and their permanence. The Planning Practice Guidance (PPG) identifies factors which can be taken into consideration when assessing the impact of a

¹ R (Heath and Hampstead Society) v Vlachos [2008] EWCA Civ 193; [2008] 3 All ER 80)

development on Green Belt openness. It states that openness is capable of both spatial and visual aspects.

16. The proposed development in both appeals would result in extensions and alterations to similar areas of the host dwelling, which would be partially screened by mature trees and vegetation, which would reduce the visual effect of both proposals, especially when viewed from the road to the front of the host dwelling. Nevertheless, the effect on openness is not just about the degree to which a new building would be visible to the public realm but it is also concerned about the spatial aspect of encroachment on openness which can result from the cumulative effect of even small new buildings. The appellant has drawn to my attention 2no. judgments², which I have taken into account as material considerations in the determination of this appeal.
17. I recognise that the scheme proposed in Appeal B would have a further reduced visual impact than the scheme proposed in Appeal A, as it would not involve an increase in the ridge height and includes a 2-storey side extension of reduced width. Nonetheless, in both instances, the development proposed introduces additional bulk and massing to the site and therefore, in spatial terms, would have a harmful impact upon the openness of the Green Belt. It follows that whilst the development would not be visually intrusive in terms of openness, it would nonetheless, have a harmful impact on openness due to its spatial characteristics.
18. For the reasons given above, I conclude that the proposed development in both Appeal A and Appeal B would result in a moderate loss of openness to the Green Belt. As such, they are contrary to DMP Policy DM16 and the requirements of the Framework.

Character and appearance, including the PHECA and HWRASC

19. The host dwelling is an attractive detached house, located in a notable plot, 1-storey in form, but with accommodation in its roof and associated dormer style windows in both its front and rear roof slopes. The site is located in an area characterised by large detached dwellings in verdant and spacious surroundings, within the PHECA. The significance of the PHECA is its wooded and tranquil atmosphere, and low-density development. Additionally, the urban form of the area is of high architectural quality, with a mix of styles, comprising, Arts and Crafts, Art Deco and Tudor Revival. The Pinner Hill Conservation Area Appraisal and Management Strategy (the CAAMS) identifies the host dwelling as a building that positively enhances the PHECA.
20. The Framework requires that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, taking account of the available evidence and any necessary expertise. Paragraph 192 of the Framework requires local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, and the desirability of development making a positive contribution to local character and distinctiveness.
21. DMP Policy DM7 states that proposals should preserve and enhance heritage assets in the borough. The site and surrounding area are also within the

² Euro Garages Limited v The Secretary of State for Communities and Local Government, Cheshire West and Chester Council [2018] EWHC 1753 (Admin), 2018; and Samuel Smith Old Brewery (Tadcaster) (An Unlimited Company), Oxtou Farm (An Unlimited Company) v North Yorkshire County Council [2018] EWCA Civ 489

HWRASC. Within special character areas DMP Policy DM6 states that proposals will be considered having regard to the strategic value of the area. Proposals that cause substantial harm to the area or its setting will be refused. Additionally, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) sets out that in the exercise of planning functions with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area.

Appeal A

22. The proposed development through the introduction of the 2-storey side extension would erode the symmetry on the front elevation of the host dwelling. Additionally, the increase in ridge height would reduce the prominence of the 2no. chimneys, where the CAAMS identifies prominent, and sometimes decorative brick chimneys are often used to emphasise the building's particular form, symmetrical or otherwise, and are a key feature of the Arts and Crafts. Additionally, the increase in ridge height as proposed would result in the loss of the decorative end ridge tiles, which is a minor detail, but is nevertheless an important and defining feature on this Arts and Crafts property.
23. I also find that there are misgivings in the design of the side elevation of the 2-storey side extension. Whilst this elevation would be screened to an extent by neighbouring trees, it would create a strident feature on the property, particularly when taking into account the raised eaves on the proposed rear elevation. I do not find that this detail compliments the existing cottage style of the host dwelling or represents a subordinate feature. Additionally, the proposed fenestration details, particularly through the number of double doors, further erodes the existing character of the host dwelling.

Appeal B

24. The proposed development on this appeal has resulted in notable improvements to the proposed front elevation, particularly through the reduced width of the 2-storey side extension, no additional dormer, no increase to the existing ridge height and the retention of the decorative end ridge tiles. This results in the host dwelling maintaining a degree of symmetry and the prominence of its 2no. chimneys.
25. However, I have concerns surrounding the 2-storey rear extension and its effect on the host dwelling. This element of the proposal would extend accross most of the rear elevation, projecting beyond the south side elevation, albeit by a modest distance. Nonetheless, this feature along with the overall scale and massing of the 2-storey rear extension, would severely harm the appearance of the host dwelling to the detriment of its existing character. This would be compounded further through the 3no. dual pitched roofs over the 2-storey rear extension and their rear facing gables. Whilst acknowledging the similar feature at the adjacent dwellings, these properties differ in design to the host dwelling and are therefore not directly comparable to the host dwelling.
26. Furthermore, in this instance the fenestration on the rear elevation of the proposed development would introduce 6no. sets of double doors, with a full length glazing panel either side, where the first floor openings would all include a 'juliet' style balcony. Additionally, a feature glazing panel would be above the

first floor opening in the central gable of the proposal. In this instance, I find that such an approach would significantly change the character and appearance of the site, to the detriment of the host dwelling and the surrounding PHECA and the HWCA.

Conclusions

27. The proposed development in both Appeal A and Appeal B would have negative effects on the significance of a designated heritage asset and would result in "less than substantial" harm in the words of paragraph 196 of the Framework. To allow the proposal the resultant harm would need to be clearly outweighed.
28. The proposals would both provide additional accommodation for the appellant, but this would amount in both instances to a private benefit. In both Appeal A and Appeal B, I find little in the way of public benefits that would outweigh the harm to the significance of the PHECA. The statutory duty in Section 72 of the Act is a matter of considerable importance and weight. On the details before me, both Appeal A and Appeal B fail to accord with this duty.
29. For the reasons given above, I therefore conclude that the proposed development in Appeal A and Appeal B would not preserve or enhance the character and appearance of the host dwelling and the surrounding PHECA. There would also be harm to the HWRAC. This would be contrary to the heritage, design, character and appearance aims of CS Policy CS1.B, CS1.D, CS6.A, DMP Policies DM1, DM6, DM7, LonP Policies D1, D3, D4, HC1. Accordingly the proposed development would fail to accord with the aims and objectives of the CAMMS and the requirements of the Framework.

Other considerations

30. Paragraph 144 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. Other considerations in favour of the development must clearly outweigh the harm. I have not been provided with any specific very special circumstances by the appellant in both Appeal A and Appeal B. Although, my attention has been drawn to a number of appeals³ in support of his submission and other development in the locality, including the adjacent neighbouring properties to the site⁴.
31. However, the appeals are located in different parts of the country and they are not subject to the same policies as the case before me. Whilst, I have not been provided with the full details of these referenced schemes, I was able to observe and assess the sites in the same Council area as the appeal during my visit. I also note the relevance of the appeals referenced by Council are disputed by the appellant. In any event, the fact that other development may exist, even if there are similarities to the appeal schemes, is not a reason, on its own, to allow otherwise unacceptable development.
32. The appellant has specifically referred to the presence of permitted development rights at the host dwelling, which has been supported by a drawing at Appendix 7 of his statement in Appeal B. However, this scheme would appear to be to the ground floor only and would involve an extension off the existing rear single storey outrigger, where there is a dispute between the main parties surrounding its status as part of the original building. Additionally,

³ APP/Y3615/W/18/3202309; APP/Y3615/D/17/3166439

⁴ Castlewood and York Cottage

there is nothing to indicate there is a greater than theoretical possibility that the fall-back may take place. Therefore, I give the fall-back position limited weight. Even if I had come to a different conclusion, any permitted development would be lawful development which the appellant would be entitled to undertake and therefore is not comparable to the appeal proposal before me.

Planning Balance

33. I consider that the proposed development in both Appeal A and Appeal B would cause harm to the Green Belt by way of its inappropriateness and to its openness, and substantial weight should be given to these harms. The proposed development in Appeal A and Appeal B would also fail to preserve the character and appearance of the host dwelling and the PHECA and although the harm to the heritage asset is less than substantial, as noted above, there are no public benefits which would outweigh that harm. Additionally, there would be harm to the HWRASC.
34. In any event, the considerations advanced by the appellant in the evidence do not outweigh the harm identified in respect of the main issues, so as to amount to very special circumstances. Consequently, very special circumstances do not exist. The proposed development would conflict with the development plan when taken as a whole, and there are no other material considerations which outweigh this finding. It would also be at odds with the requirements of the Framework

Conclusion

35. For the reasons given above, I conclude that both Appeal A and Appeal B should be dismissed.

W Johnson

INSPECTOR