



Appeal Decision

Site Visit made on 27 September 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 October 2021

Appeal Ref: APP/Q5300/D/21/3276311

The Cottage, 1 Cook's Hole Road, Enfield, EN2 0UD

- 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 Mrs J Mansfield against the decision of London Borough of Enfield.
 - The application Ref 21/00009/HOU, dated 15 December 2020, was refused by notice dated 11 March 2021.
 - The development proposed is the erection of an oak framed ancillary annex.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would amount to inappropriate development in the Green Belt;
 - the effect of the proposed outbuilding on the openness of the Green Belt;
 - whether the proposal would preserve or enhance the character or appearance of the Clay Hill Conservation Area (CHCA);
 - whether the proposed development would be tantamount to the creation of a separate dwelling and if so the policy implications of this; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

Reasons

Inappropriate development

3. The site is within the Green Belt. Policy CP33 of the Enfield Core Strategy 2010-2025 (CS) seeks to protect and enhance Enfield's Green Belt. Also, Policy DMD 82 of the Enfield Development management Document (DMD) and Policy G2 of the London Plan (2021) seek to resist inappropriate development in the Green Belt. The latter policy also states that such proposals will be assessed in accordance with the National Planning Policy Framework (The Framework). Paragraph 137 of the Framework identifies that the fundamental aim of the Green Belt is to prevent urban sprawl and keep land permanently open.

Paragraph 149 establishes that a building would be inappropriate unless it would meet a listed exception. Exception (c) allows for “the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building”.

4. The Framework does not refer to outbuildings within the curtilage of a dwellinghouse with regard to the operation of paragraph 149. However, there may be some circumstances where an outbuilding could be regarded as an extension to a dwelling. This could be when an outbuilding would be in such close proximity to a dwelling as to be a normal domestic adjunct to the building. However, in this case the proposed building would be some distance from the main dwelling and would not therefore constitute an extension in this regard.
5. As it has not been demonstrated that the proposal would meet any of the exceptions listed in Paragraph 149 of the Framework, it would amount to inappropriate development in the Green Belt. It is therefore, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on openness

6. The openness of the Green Belt has both spatial and visual dimensions. The plot is within a dispersed group of buildings and is partially screened from the access road to the front by hedging. The appeal site presents relatively distant views of the woodland to the rear of the property on lower land. Although, providing enclosed views of the immediate area, the setting of the plot includes large open spaces, wooded areas and low-density development.
7. The proposal would be a relatively large structure, set away from nearby built form. It would be largely visible from the access into the property, through the gaps in the frontage hedging and from the woodland to the rear. As a result, the addition of built form of this nature would fundamentally alter the appearance of the currently open and undeveloped parcel of land. As such, the proposal would convey moderate visual harm to the openness of the Green Belt in this context. Furthermore, due to its scale, separation from the main dwelling and prominence, the proposed outbuilding would also result in moderate spatial harm. Therefore, collectively, the proposed outbuilding would be of moderate harm to the openness of the Green Belt.

Character and appearance

8. Cook’s Hole Road is a single-track lane. It is mostly enclosed by hedging and woodland areas. Nearby dwellings, accessed from the lane, are within large and spacious plots. These reinforce the verdant and sylvan semi-rural character of the area. The host dwelling is a relatively small, well-designed building that stands within a large plot. It includes mature trees and hedge planting on its boundaries. As such, the appeal site makes a positive contribution to the open and verdant character and appearance of the area.
9. The appeal site is within the southern edge of the CHCA. The statutory requirements¹ entail that special attention be paid to the desirability of preserving or enhancing the character and appearance of a conservation area. Furthermore, paragraph 199 of the Framework requires great weight to be

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

given to an asset's conservation when considering the impact of a proposal on its significance. The CHCA Appraisal identifies that the area has an informal and spacious feel. The significance of the CHCA therefore derives from its predominantly rural character, with a scattered linear settlement along Clay Hill and including dispersed outlying dwellings.

10. The proposal would continue the frontage of the host dwelling with development that would extend built form further through the site. The proposed outbuilding would be a wide and deep structure, forming a large roof area that would substantially increase the overall mass of the building. Consequently, the proposal would be a stark addition to the site in a relatively prominent location. Furthermore, the proposal would consolidate built form and erode the current spacious setting of the building within its plot. As a consequence, the proposal would not be successfully integrated into the local context. A condition to protect or enhance the existing boundary screening would not negate this harm.
11. Consequently, the proposed outbuilding would be demonstrably harmful to the character of the area and would not preserve the CHCA. Accordingly, the proposal would fail to satisfy policies D4 and HC1 of the London Plan (2021), policies CP30 and CP31 of the CS, policies DMD12, DMD37, DMD44 and DMD84 of the DMD and the Framework. These policies seek, among other matters, for development to not adversely impact on the character of the local area, to preserve the Borough's heritage assets and protect areas of special character.
12. The proposal would result in 'less than substantial harm' to the conservation area. The Framework sets out the need to address 'less than substantial harm' in a balanced manner against the public benefits associated with such schemes. The appellant advances design features of the proposal as benefits of the scheme. However, as the overall impact of the proposal would be harmful, any design benefits would be negligible in the planning balance. Other benefits reference by the appellant would be private gains to the current occupiers. Accordingly, the proposal would not result in the provision of any clear public benefits, as required by paragraph 202 of the Framework, that might outweigh the harm.

New dwelling

13. The proposed outbuilding would be relatively large and separate from the host dwelling with a roadside frontage. It would include two bedrooms, shower rooms, a kitchenette and living space. It would therefore accommodate all the necessary facilities for independent day-to-day living. However, I recognise that the building would accommodate the appellant's elderly relatives and in time the existing occupants of the main dwelling. This would then enable the main dwelling to be occupied by other family members. The proposal would not include the subdivision of the plot and would share existing external areas, parking and access arrangements.
14. Consequently, whilst the unit could be independently occupied, it is proposed to be accommodated by individuals associated with the occupiers of the main dwelling. Based on the evidence before me, it appears that the proposed outbuilding would be incidental to the use of the host dwelling. It would therefore remain part of the same planning unit and would function as part of the main dwellinghouse use rather than be ancillary to it.

15. The use of the outbuilding would not therefore result in a material change of use. If the outbuilding were to be severed from the main dwelling or independently occupied this position would change. Had I been minded to allow the appeal this dependency could have been secured by a condition. Such a condition would pass the tests of paragraph 56 of the Framework being enforceable as any subdivision of the plot would be clearly evident.
16. As such, the proposal would not result in the creation of a separate dwelling. Consequently, it would accord with policy DMD12 of the DMD. This policy seeks outbuildings to be ancillary to the use of the residential dwelling. Accordingly, policies D3, D4 and D6 of the London Plan (2021), policy CP30 of the CS and policies DMD8 and DMD 37 of the DMD are not relevant to this issue as the proposal would not result in the provision of a new dwelling.

Other considerations

17. An article 4(2) Direction covers several parts of the CHCA, including the appeal site. This was made to address identified threats to the character of the area and includes development fronting a highway and open space. This includes the appeal site but excludes The Thatched Cottage opposite the site. The Council has stated that the issued Lawful Development Certificate for an outbuilding, within the grounds of the Thatched Cottage, pre-dated the imposition of the Article 4(2) Direction. However, it also seems to be outside the boundary of the CHCA and therefore would have been subject to different planning considerations.
18. The submitted appeal decision² relates to a proposal to delete a condition that removed Permitted Development rights from the existing dwelling. Although dismissing the appeal, the Inspector found some overlap between the restrictions of the condition and the Article 4(2) Direction. The Inspector noted that without the condition a rear outbuilding may not require planning permission, having an effect on the Green Belt and CHCA without planning control. However, since the appeal was dismissed such development would require planning permission and therefore this scenario does not present a fall-back position in this case.
19. A historical Ordnance survey map of the area indicates that outbuildings may have previously been within the site. However, there was no indication of these when I made my observations on site and they cannot therefore provide justification for any new development.
20. The design of the proposed dwelling is simple with good quality materials. Nevertheless, for the reasons already given, the proposed development would not be sympathetic to the context of the appeal site and the surrounding area. Therefore, I attach minimal weight to the merits of the proposed design.
21. The proposal would allow the existing occupiers to stay on site whilst releasing the main dwelling for other family members. Also, the proposed development would allow the occupiers to gain increased living space and adapt to evolving family needs. However, these merits would result in a private gain and offer limited weight in favour of the scheme.
22. The site is also within the setting of The Thatched Cottage; a locally designated heritage asset. Also, the cemetery and park are designated by the Council as

² Appeal Decision Reference: APP/Q5300/A/11/2157152

local heritage assets. The proposed development would be set into the site, some distance from these assets and separated by intervening landscaping resulting in no harm to their settings.

Whether there would be Very Special Circumstances

23. Paragraphs 147 and 148 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
24. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the proposal would result in moderate harm to the openness of the Green Belt and would harm the character and appearance of the area. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.
25. On the other hand, the other considerations I have identified including the benefits to the occupiers of the existing dwelling, are of limited weight in favour of the proposal. As such, the harm to the Green Belt is not clearly outweighed by the other considerations identified. Therefore, the very special circumstances necessary to justify the development do not exist. Accordingly, the proposal fails to adhere to the local and national Green Belt policies I have already outlined.

Conclusion

26. The proposed development would not accord with the development plan or national policies and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

B Plenty

INSPECTOR