



Appeal Decision

Site Visit made on 25 October 2021

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2021

Appeal Ref: APP/J1915/W/21/3272397

Farlea, Spellbrook Lane West, Spellbrook, Bishop's Stortford CM23 4AY

- 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 Greg McClelland against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0112/FUL, dated 18 January 2021, was refused by notice dated 16 March 2021.
 - The development proposed is the erection of dwelling with linked garage with room over, swimming pool, pool house, with associated landscaping, parking and the creation of new access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of dwelling with linked garage with room over, swimming pool, pool house, with associated landscaping, parking and the creation of new access at Farlea Spellbrook Lane West, Spellbrook, Bishop's Stortford CM23 4AY in accordance with the terms of the application, Ref 3/21/0112/FUL, dated 18 January 2021, subject to the conditions set out in the schedule at Appendix 1.

Main Issues

2. The main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the proposal is inappropriate development, whether or not there are any other considerations which clearly outweigh the harm by reason of inappropriateness, and any other harm, so as to amount to the very special circumstances necessary to allow the development.

Reasons

Inappropriateness

3. The appeal site is an area of land adjacent to 'Farlea' which at the time of my visit had been excavated. Planning permission has been granted for a dwelling on site (Ref. 3/20/1955/FUL) which is extant and represents a fallback position to the appeal proposal before me. A previous permission (Ref. 3/17/2018/FUL) for two dwellings on the site appears to have lapsed. The appeal proposal materially differs from the fallback through the inclusion of a new link between the dwelling and the garage, some further alternations to the dwelling layout,

the addition of a swimming pool, hard landscaping and a 'pool house' (which would include a gymnasium, changing room and lounge area) positioned to the rear of the dwelling.

4. The National Planning Policy Framework (NPPF) attaches great importance to Green Belts, and paragraph 149 considers the construction of new buildings to be inappropriate in the Green Belt subject to exceptions. Paragraph 149(e) of the NPPF allows for limited infilling in villages as one of those exceptions. The appeal site is located between the adjacent dwellings known as 'Farlea' and 'Inglis' with the proposed dwelling positioned between the two properties. The appeal site would not protrude further into the Green Belt than the rear boundary of Farlea, albeit the proposed site boundary would extend the rear curtilage slightly further beyond the rear boundary of Inglis when compared to the boundary of the fallback. However, the site boundary would still not extend further south than the most southerly point of the boundary of the fallback permission.
5. Further beyond the rear boundary of the appeal site, my attention has been drawn to the stables which have permission for residential conversion (Ref. 3/18/0978/FUL) and to the east of Farlea, a site with planning permission for two dwellings (Ref. 3/19/1409/FUL). The appeal proposal would not be directly adjacent to the stables and there would remain a gap between the stables and the appeal site. Although no detailed plans have been provided in respect of the two dwellings to the east of Farlea (3/19/1409/FUL), the site plan in the appellant's statement shows its boundary follows the rear boundary of Farlea. The appeal proposal would continue the linear development along Spellbrook Lane West and the rear boundary would align with the properties to the east. I consider the appeal site has a close relationship to the adjacent residential properties on Spellbrook Lane West and the proposal would infill a gap between the two existing properties, continuing the linear development along the road frontage.
6. The appeal proposal includes a side link which would infill a proportion of the space between the proposed dwelling and garage. The swimming pool would be set into the ground and would not extend beyond the rear building line of Farlea. Although the position of the pool house would be set back beyond the rear building line of both adjacent properties, the overall depth of the rear curtilage would not project further than the dwellings to the east of the site.
7. Although the proposed pool house would be of a significant scale, the Council has not raised concerns regarding its character or appearance. Furthermore, other outbuildings could be erected under Permitted Development rights beyond the rear of the proposed dwelling and the Council confirmed that it did not remove Permitted Development rights for outbuildings as part of the fallback permission. I consider that the minimal increase in the size of the curtilage, and the position of the proposed development between the adjacent properties would, in my judgement, constitute limited infilling in a village as defined by paragraph 149 of the NPPF.
8. In light of the above, I therefore conclude the proposal would not be inappropriate development in the Green Belt for the purposes of national planning policy. As such, it would accord with Policy GBR1 of the East Herts District Plan (2018) which states that proposals within the Green Belt will be considered in line with the NPPF.

Openness

9. Paragraph 137 of the NPPF indicates that it is a fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.
10. The scale and permanence of the pool house would erode part of the rear garden land of the proposed development and the presence of the additional building would not keep that part of the Green Belt permanently open. However, whilst a new building would have an effect on openness, as the proposal would represent limited infilling within a village under paragraph 149(e) of the NPPF, any impact on openness is implicitly taken into account within this exception. Further, the impact on openness would be minimised as a result of the lower level of the appeal site than the paddock land to the rear.

Other considerations

11. The provision of a single dwelling would have economic benefits arising from construction and the supply of materials. It would also have social benefits arising from future occupants utilising services and facilities in nearby settlements. Furthermore, the appeal proposal would also make a positive contribution to meeting housing need in the area through the provision of an additional dwelling. However, as only a single house is proposed, the social and economic benefits would only be limited.

Conditions

12. The Council has identified conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the NPPF and the Planning Practice Guidance and have only imposed them where I consider they meet the tests, amending them where necessary for the sake of clarity, precision and enforceability.
13. Although it appears the fallback permission has commenced, the standard time limit is nonetheless required to define this permission. In addition, in the interests of certainty, I have imposed a condition specifying the approved plans.
14. In order to avoid any harm to archaeology that may be found on site, the Council suggested a pre-commencement condition for a programme of archaeological work to be undertaken prior to any development or groundworks. However, as groundworks have been undertaken in relation to the fallback permission, and the original scheme of archaeological work in relation to the siting of the dwelling has been partly discharged, the condition is required to be amended to reflect the additional area of land where the proposed poolhouse is to be sited which has been agreed by the appellant.
15. The Council had suggested a pre-commencement condition be imposed to restrict development or groundworks in order to ensure the living conditions of adjoining occupiers would not be harmed in respect of changes in land levels. However, as groundworks had taken place on the fallback permission, I have amended the condition to reflect any above ground construction taking place. I have also removed references in the Council's originally suggested condition relating to a specific number of buildings what did not match the plans. Therefore, in the interests of certainty a pre-commencement condition which

has been agreed by the appellant is required seeking details of the existing and proposed ground levels as well as details of the ridge heights of the proposed development.

16. In the interests of good design and the appearance of the development, a condition is required seeking approval of the materials to be used.
17. In the interests of design and the living conditions of future occupiers, a condition is required to seek approval for the details of hard and soft landscaping and the accompanying landscaping materials.
18. In the interests of design and the avoidance of harm to the living conditions of future occupiers of the proposed development and adjoining occupiers, a condition is required specifying the details of boundary walls, fences and other means of enclosure.
19. In the interests of highway safety, a condition is required to secure suitable visibility splays as per the submitted plans and to ensure those splays are maintained free of obstruction.
20. In the interests of good design and the continued maintenance of the landscaping proposals, a further condition is required to ensure that any trees or plants identified are replaced within 5 years of planting should these die or are otherwise damaged or defective.
21. In the interests of highway safety, a condition is required specifying the establishment and retention of wheel washing facilities for any construction traffic using the site.
22. The Council has sought a condition seeking to remove Permitted Development rights buildings or outbuildings within the curtilage of a dwellinghouse. Due to the scale of the development approved including the swimming pool and pool house and the extent of the curtilage that is covered by hard landscaping, in order to ensure satisfactory control over the future development of the site, in this exceptional circumstance, a condition is necessary to restricting any further development under the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended).

Conclusion

23. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

Philip Mileham

INSPECTOR

Appendix 1

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 05.20.LP Rev.A – Location Plan
 - 05.20.01 Rev.F – Site/ Roof Plan
 - 05.20.02 Rev.F – General Arrangements Plans
 - 05.20.03 Rev.E – General Arrangement sections & elevations
 - 05.20.04 Rev.A – Proposed Poolhouse
 - MS-5394 – Topographical Survey
- 3) No development or groundworks shall take place in connection with the pool house until a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme, and this condition will only be discharged when the required archaeological reports for the whole of the application site are submitted to and approved in writing by the Local Planning Authority.
- 4) Prior to any above ground construction works being commenced, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Prior to first occupation of the development hereby permitted, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be carried out in accordance with the approved details.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of such species, size and number as

originally approved, unless the Local Planning Authority gives its written consent to any variation.

- 8) Prior to the first occupation or use of the development hereby permitted, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development should be implemented in accordance with the approved details.
- 9) Prior to the occupation of the proposed development, visibility splays shall be provided in accordance with plan red 05.20.01 Rev F and the area contained within the splays shall be kept free of any obstruction exceeding 0.6m in height above the nearside channel level of the carriage and shall be maintained as such thereafter.
- 10) Wheel washing facilities shall be established within the site and shall be kept in operation at all times during demolition and construction works.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, no works or development as described in Schedule 2, Part 1, Class E of the Order shall be undertaken without the prior written permission of the Local Planning Authority.