
Appeal Decision

Site visit made on 16 November 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/B1930/D/21/3271974

24 Frogmore Home Park, St Albans AL2 2LW

- 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 Miss O'Reilly against the decision of St Albans City Council.
 - The application Ref 5/20/1759, dated 31 July 2020, was refused by notice dated 4 March 2021.
 - The development proposed is described as an infill side extension, rear extension and cladding to entire building.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken any made into account. I have had regard to the 2021 version of the Framework in my decision.

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;
 - whether the proposal would be at an unacceptable risk of flooding; 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 the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

4. Paragraph 149 of the Framework sets out exceptions to the presumption against new buildings in the Green Belt. The main parties have focussed on exception c), which relates to 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.

5. Certain aspects of Policy 1 of the St Albans District Local Plan Review (adopted 1994) (Local Plan) are consistent with the Framework, albeit that policy contains a more limited set of exceptions. Policy 13 of the Local Plan provides that, amongst other things, extensions to houses in the Green Belt may be permitted unless the scale or visual impact upon the building as originally constructed would create a building of significantly larger or different character. Whilst this part of Policy 13 of the Local Plan goes beyond the requirements of the Framework, its aim is broadly consistent with paragraph 149 c).
6. The appeal site comprises a static home and a detached garage situated within Frogmore Home Park, which backs onto the River Ver. The appellant has referred to the surrounding context, including larger properties nearby in this non-Conservation Area location. Reference has also been made to the design credentials of the proposal (including that it would be subordinate to the existing property), and to its potential impact on the street scene, considering that some of the proposal would be screened from wider views. However, both the Framework and Policy 13 of the Local Plan require an assessment of the proposal against the original building.
7. In this regard, the Council have stated that, taking account of historic records, the appeal proposal would result an uplift of approximately 133% in floor space over and above the size of the original building. This has not been disputed by the appellant. Whilst of some age, this increase in floor space greatly exceeds the indicative range given in Table 2 of the Residential Extensions and Replacement Dwellings in the Green Belt Supplementary Planning Guidance (2004). Furthermore, the proposal would result in the existing building being extended by some margin to the side and the rear, involving a considerable uplift in volume.
8. As such, the proposal would involve a considerable increase in size, which would result in a disproportionate addition over and above the size of the original building. The proposal therefore constitutes inappropriate development in the Green Belt for the purposes of the Framework. Inappropriate development is, by definition, harmful to the Green Belt.

Openness

9. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
10. The proposal would be visible when viewed directly in front of the static home, and from some views across the green area in front of the site at Frogmore Home Park. However, in other views it would be largely screened by the existing front of the static home on one side and by the mature landscaping that exists at the neighbouring property on the other side. Accordingly, whilst it would reduce the openness of the Green Belt in visual terms, this would be to a limited degree.
11. Nevertheless, the proposal would fill the gap between the static home and the detached garage, and it would extend some way around the rear of the garage. Accordingly, as the proposal would result in a building that would be physically larger than that which currently exists on site, and by some margin, the

openness of the Green Belt would be reduced in spatial terms, resulting in harm to its openness. This would be in addition to the harm I have found through the inappropriateness of the proposal.

Flood Risk

12. The appeal site is situated very close to a main river, and the Environment Agency have confirmed that the proposal falls within Flood Zone 3, which is land defined in the Planning Practice Guidance (PPG) as being at a high risk of flooding.
13. The Strategic Flood Risk Assessment locates the site within Flood Zone 3b which is the functional floodplain. The appellant's Flood Risk Assessment (FRA) contains a detailed assessment of the hydraulic models used in the 2019 River Ver Modelling Study which demonstrate that the site appears to fall within Flood Zone 3b only by way of an inaccuracy within the modelled 1 in 20 year design event. The Council have not provided any specific technical evidence to rebut these findings. Therefore, on the basis of the evidence before me, I consider that the site falls within Flood Zone 3a. In this regard, I am mindful of paragraph 159 of the Framework which provides that, amongst other things, inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
14. As the proposal relates to an extension to the existing dwelling it falls within the definition of minor development, given in the PPG¹. Additionally, the Environment Agency have categorised the proposal as being 'lower risk'. As the proposal is minor development, not involving a change of use, and a FRA has been submitted, in accordance with paragraph 168 of the Framework the proposal is not subject to the sequential or exception tests. Considering the flood risk issues typically raised by minor developments as identified in the PPG², and the small scale of the proposal, I consider that the proposal would be unlikely to raise any significant issues with respect to flood risk.
15. The Council have referred to an appeal decision in relation to application Ref 5/2012/1931 but have not provided a copy so I am unable to consider it further. The appellant has requested that a condition be imposed relating to a Flood Risk Activity Permit. Such a condition can only be imposed if the appeal is allowed, which is a matter that I conclude upon, below.
16. Taking into account all of the above, the proposal would not be at an unacceptable risk of flooding. As such, it would comply with Policy 84 of the Local Plan which seeks to, amongst other things, reduce the risk of flooding. It would also comply with section 14 of the Framework, which seeks to, amongst other things, meet the challenge of climate change and flooding.

Other Considerations

17. It is common ground that the proposal would not harm the character and appearance of the area, nor the living conditions of neighbouring occupiers. However, these are neutral matters, which do not weigh in favour of the proposal, as is the lack of harm identified above with respect to flood risk.

¹ Paragraph 7-046-20140306

² Paragraph 7-047-20150415

18. The proposal would improve the living accommodation available to the appellant, thereby enabling them to continue to contribute to the social and economic life of the area. However, this could be claimed for many proposed developments in the Green Belt, and accordingly I have given it limited weight.

Conclusion

19. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes 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. The proposal would be inappropriate development in the Green Belt and would result in the loss of its openness. These matters carry substantial weight. For the above reasons I attach no more than limited weight to the other considerations cited. As such, they do not clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would not therefore accord with the Green Belt aims of both Policies 1 and 13 of the Local Plan, or the Framework, as set out above.
21. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR