



Appeal Decision

Site visit made on 25 January 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2022

Appeal Ref: APP/B1930/D/21/3283951

12 Marshalls Heath Lane, Wheathampstead, St Albans AL4 8HR

- 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 and Mr Andrew Willis against the decision of St Albans City & District Council.
 - The application Ref 5/21/0686, dated 9 March 2021, was refused by notice dated 13 July 2021.
 - The development proposed is erection of a first floor extension above original dwelling with rear terrace at first floor and construction of a single storey front infill.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i. Whether or not the proposal would be inappropriate development in the Green Belt in terms of the National Planning Policy Framework ('the Framework') and development plan policy; and
 - ii. if the development would be inappropriate, whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Development in the Green Belt

3. The appeal site comprises a detached, extended bungalow situated within the Metropolitan Green Belt. Policy 1 of the St. Albans District Local Plan Review (1994) ('LP') sets out the extent of the Green Belt and identifies certain types of development which would be acceptable here. More specifically, Policy 13 of the LP states "Extensions to houses in the Green Belt including garages or outbuildings may be permitted unless the scale or visual impact upon the building as originally constructed (or as existing 1 July 1948 if constructed before that date), would create a building of significantly larger or different character."
4. Given that Policy 13 of the LP refers to 'scale' it is broadly consistent with more recent national Green Belt policy under Paragraph 149 of the Framework, which sets out certain exceptions for new buildings in the Green Belt and includes: 'c)

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.’ The Framework, defines ‘Original building’ as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

5. National policy or guidance gives no specific direction on how to come to a view as to what constitutes ‘disproportionate additions’ beyond a comparison between what is original and the extent of any additions.
6. That comparison is between the original building and built extensions and what is proposed. It does not include a fallback position for unbuilt extensions forming part of an implemented planning permission or those allowed under permitted development rights or the grant of a lawful development certificate. I shall though return to such matters under Other Considerations below.
7. I have taken account of a Judgement¹ referred to me by the appellants. This specifically relates to the “materially larger” test for replacement buildings in the Green Belt, which does not apply in this case.
8. In any event, in this case, the main parties have referred to the Council’s supplementary planning guidance (‘SPG’) which relates to extensions to properties within the Green Belt. On the information before me, the SPG sets out a number of criteria for assessing extensions to properties in the Green Belt. This includes size parameters (volume and floorspace). Whilst the SPG is guidance, these size parameters are useful for assessing whether the proposed extensions would comprise disproportionate additions.
9. On the evidence before me, the proposal would significantly exceed the floorspace and volume parameters set out in the SPG. Therefore, cumulatively, the extent of existing and proposed extensions would result in disproportionate additions over and above the size of the original building.
10. Consequently, because the proposal fails the size test and does not meet the exception under Paragraph 149 (c) of the Framework, it is inappropriate development in the Green Belt.
11. The Framework states that the essential characteristics of Green Belts are their openness and their permanence.
12. As a consequence of the proposal, the increase in footprint to the front of the dwelling would reduce the spatial openness of the plot. Furthermore, and despite there being some intervening landscaping, the increase in volume and height of the dwelling, would appreciably add to its overall massing and scale. Thereby resulting in a greater visual impact on the openness of the Green Belt when viewed from the highway. This reduction in openness is a further aspect of Green Belt harm.

Other Considerations

13. The Framework states that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development’s harm to the Green Belt by reason of inappropriateness, and

¹ The Queen on the application of Heath & Hampstead Society and Alex & Thalys Vlachos and London Borough of Camden [2008] EWCA Civ 193.

any other harm, is clearly outweighed by other considerations. In this regard the appellants have referred me to their fallback position.

14. For significant weight to be afforded to a fallback position, there needs not only to be a reasonable prospect of it being carried out in the event that this planning permission were to be refused, but it would also need to be more harmful than what would be allowed by the scheme for which permission is sought. As a result, an element of planning judgement is also involved in that assessment process.
15. The planning history for the property provides a strong indication that the appellants are seeking to extend this dwelling. On this basis, there is a reasonable prospect of the fallback being carried out in the event that this appeal was to be dismissed.
16. When what could be allowed from the fallback is compared to the appeal scheme, the appeal scheme represents a greater increase in floorspace and volume relative to the fallback. However, according to the appellant the first-floor element of the fallback would be taller than the appeal scheme. The Council advises that the ridge height of the proposal would be higher than the fallback. In the absence of scale drawings relating to the fallback, I cannot be certain of any height differences. Even if I were to accept the appellants' position in respect of this, given that the Council's criteria for assessing 'size' are floorspace and volume, the appeal scheme would be more harmful on the Green Belt in terms of inappropriateness.
17. Furthermore, because the first-floor element of the appeal scheme extends over a greater extent of the existing dwelling than the fallback, the overall massing associated with the appeal scheme would have a greater adverse impact on visual openness. Particularly, in views from the highway along the driveway of the appeal property.
18. As already stated, detailed plans of the fallback are not before me. However, this includes extensions which would have been of an acceptable design to have received approval from the Council. Development granted under the provisions of permitted development is generally subject to conditions and limitations in respect of size and materials so that it is of a compatible appearance. Therefore, it is likely that, overall, the fallback would be of an acceptable design. Accordingly, even if the appeal scheme represents a more cohesive design, this is only afforded limited weight.
19. For the above reasons, the fallback position is, therefore, a material consideration of limited weight in the overall Green Belt balance.
20. I have considered the other approved schemes, submitted in support of the proposal. Appeal decision APP/Y3940/D/11/2153002 relates to development in an Area of Outstanding Natural Beauty. The scheme for Garden Cottage at Annables Lane was for a replacement dwelling and detached garage. Therefore, these schemes are not comparable to a proposal for extensions to a dwelling in the Green Belt.
21. In respect of development at York Cottage, Pinner Hill, Pinner, the evidence refers to a 77% increase. However, it is unclear which size parameter this applies to. Irrespective, this permission relates to another administrative area where different local policies and thresholds may apply.

22. The proposal at Cutts Cottage relates to a single storey side/rear extension. According to the appellant this resulted in a 163% increase in floorspace and 389 cubic metres increase in volume. Whilst I do not dispute this, these increases in size are less than those associated with the appeal scheme.
23. The Council's evidence refers to an application at Greenway House (ref:5/2019/2402). However, I have insufficient information in respect of this to draw any conclusions. In any event, each application is determined on its merits. Consequently, the abovementioned approved schemes attract very limited weight in the overall balance.
24. On the information before me, the decision on the lawful development certificate application for a proposed outbuilding at the appeal property is still pending. Therefore, I attach no weight to this in the overall balance.
25. I appreciate that the appellants seek to secure a larger dwelling to meet their needs. Nonetheless, this does not heavily influence the planning merits of the case and the need to make planning decisions in the wider public interest. As such, this factor is afforded little weight.

Green Belt balance

26. The proposal would harm the Green Belt by way of inappropriateness and loss of openness. The Framework requires substantial weight to be given to any harm to the Green Belt.
27. Having taken account of all considerations raised in support of the proposal, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the proposal conflicts with the Green Belt provisions of the Framework and Policies 1 and 13 of the LP.

Conclusion

28. For the reasons given above, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR