
Appeal Decision

Site visit made on 5 April 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/B1930/W/21/3285363
Long Acre, Holly Lane, Harpenden AL5 5DY

- 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 & Mrs Weatherill against the decision of St Albans City & District Council.
 - The application Ref 5/21/1279, dated 30 April 2021, was refused by notice dated 24 September 2021.
 - The development proposed is demolition of existing chalet bungalow and replacement with 1.5 storey Passivhaus and associated works. Amendments to existing garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. As the appeal site is within the Green Belt the main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and development plan policy;
 - the effect of the proposal on the openness of the Green Belt; and,
 - If the proposal would be inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

3. The Framework, at Paragraph 149, states that the construction of new buildings should be regarded as inappropriate in the Green Belt except in a limited number of clearly defined circumstances. One exception to inappropriate development is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 149d).
4. Policy 1 of the City and District of St Albans District Local Plan Review (1994) (LP) relates to development within the 'Metropolitan Green Belt'. LP Policy 13 relates to 'Extensions or Replacement Dwellings' in the Green Belt. Whilst these policies were adopted significantly prior to the Framework, taken together,

their overarching intentions are broadly consistent with the Framework. Where there are inconsistencies with the Framework their weight is reduced. The Council's Residential Extensions and Replacement Dwellings in the Green Belt Supplementary Planning Guidance (2004) (SPG) indicates that replacement dwellings will be assessed against the criteria in paragraph 7.1 of the SPG. That paragraph relates to residential extensions and indicates that an increase in floor space of 20-40% is acceptable, subject to a maximum increase in cubic content of 300 cubic meters.

5. The Council calculate that the replacement dwelling would represent an increase in floor space of 27% over the existing dwelling and would result in a 353 cubic metre increase in volume. The increase in volume is disputed by the appellant who asserts that the correct figure is a 311 cubic metre increase. Even taking the appellant's lower volume figure, the increase in volume over and above the existing dwelling would be in excess of the 300 cubic metres maximum increase stated within the SPG. Whilst the footprint of the dwelling would be more compact than the existing dwelling, the replacement dwelling would be significantly higher.
6. I note that neither the Council, nor the appellant, have referred to the volume or floor space of the original dwelling. The planning history and my site assessment strongly suggest that the original dwelling has been previously extended. The Framework defines an 'original building' to be as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. Applying the SPG without reference to the original dwelling would allow for an unlimited increase in the scale of dwellings within the Green Belt through successive applications, undermining the purposes of the SPG and wider Green Belt policy. Notwithstanding this, and regardless of whether the original dwelling has been previously extended, overall, given the dimensions of the replacement dwelling, I find that the replacement dwelling would be materially larger than the existing dwelling. The development would not therefore comply with Framework paragraph 149d.
7. The appellant also asserts, however, that the following exception to inappropriate development found at Framework paragraph 149g is relevant:

"Limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development;"
8. For the purposes of the Framework, residential gardens outside of built-up areas are included in the definition of previously developed land (PDL). As such, the proposal does represent the redevelopment of PDL and assessment of the development's effect on openness is necessary.

Openness

9. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence. Openness is the absence of development and it has both spatial and visual aspects.

10. Whilst the site is within a cluster of dwellings, those dwellings are within a loose knit arrangement with significant surrounding open space. As such, the increased volume of the replacement dwelling would not 'infill' space between existing dwellings but would introduce additional built form at a greater height than at present. I acknowledge that visibility of the replacement dwelling from public vantage points would be limited. Nevertheless, there would be a harmful loss of both spatial and visual openness of the Green Belt due to the increased height and volume of built form. The development would not, therefore, comply with Framework paragraph 149d.

Conclusion on Inappropriate Development

11. The proposal would, therefore, be inappropriate development in the Green Belt. The Framework advises that substantial weight should be attached to any harm to the Green Belt. I have attached such weight in this instance because of the harm that would be caused to the Green Belt by reason of the inappropriateness of the proposal and the loss of openness.

Other considerations

12. I acknowledge that the proposed dwelling would be highly energy efficient and is supported by both local and national planning policy in this regard. Any reduction in energy use and emissions would, however, need to be weighed against the embodied carbon implications of replacing an existing dwelling. I have no substantive evidence in this regard and can therefore give only limited weight to the environmental benefits of the proposal.
13. I have had regard to the planning appeal¹ referenced by the appellant in relation to the erection of a detached bungalow on Sauncey Wood Lane. Relevant planning policies have changed significantly since the date of that appeal decision and, as such, the circumstances of that appeal are not directly comparable with those which apply in this appeal. Therefore, I afford the referred appeal decision limited weight.
14. I have also been referred to a permission² for a replacement dwelling in the Green Belt granted by the Council. Whilst I note that that development exceeded the volume guidance of the SPG, I do not have full details of the circumstances that led to those proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. As such, I afford the referred planning permission limited weight. In any case, I have determined the appeal on its own merits.

Green Belt Balance

15. The Framework states that inappropriate development should not be approved except in very special circumstances. These 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. Substantial weight must be given to the harm to the Green Belt due to the inappropriate nature of the proposed development and the harm that it would cause to openness. Having considered all matters in support of the development, they collectively would not clearly outweigh the identified harm to the Green Belt.

¹ Appeal Reference: T/APP/1930/A/87/77604/P2

² LPA Reference: 5/2016/0714

16. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the proposal would be contrary to LP Policies 1 and 13, the SPG and the Framework. Taken together, these policies, amongst other things, seek to protect the essential characteristics of the Green Belt.

Conclusion

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that appeals be determined in accordance with the provisions of the development plan unless material considerations (including the Framework) indicate otherwise. The development conflicts with the development plan, when read as a whole, and there are no other considerations, including the Framework, that outweigh the identified conflict.
18. As such, for the reasons given above, the appeal is dismissed.

S D Castle

INSPECTOR