



Appeal Decision

Site visit made on 12 April 2022 by Darren Ellis MPlan

Decision by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 May 2022

Appeal Ref: APP/X1925/D/21/e

Trees, London Road, Langley SG4 7PQ

- 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 Gloria Neave against the decision of North Hertfordshire District Council.
 - The application Ref 21/00783/FPH, dated 24 February 2021, was refused by notice dated 7 July 2021.
 - The development proposed is a first floor extension.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. The reason for refusal refers to policy SP5 of the emerging North Hertfordshire District Council Local Plan 2011-2031 (October 2016) (LP). The LP has not yet been adopted by the Council as part of their development plan, although the appellant states that, at the time the appeal was made, the Council were awaiting the examining Inspector's final report. However, no details have been provided regarding the examination the LP or whether any modifications have been proposed for policy SP5, and as such I can only afford very limited weight to LP policy SP5 in this case.

Main Issues

4. The appeal site is within the Green Belt and so the main issues are:
 - whether the proposal would be inappropriate development for the purposes of development plan policy and the National Planning Policy Framework (the Framework);
 - the effect of the proposal on the openness of the Green Belt; 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.
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Reasons for the Recommendation

Whether the proposal would be inappropriate development

5. The Framework establishes that new buildings in the Green Belt are inappropriate except in certain circumstances, including where they involve the extension of an existing building. This is provided that the extension does not result in a disproportionate addition 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.'
6. Saved policy 2 of the North Hertfordshire District Council District Local Plan No.2 with Alterations (1996) (DLP) is consistent with the Framework in that it seeks to protect the Green Belt but allows extensions which are appropriate in the Green Belt and which would not result in significant visual impact. Policy SP5 of the emerging LP permits development proposals in the Green Belt where they would not result in inappropriate development. Neither of these policies nor the Framework define 'disproportionate'.
7. The appeal property is a detached bungalow that has previously been extended and is set in a generous plot with several outbuildings including a car shed. A Certificate of Lawful Development was obtained in 2020 for single-storey side and rear extensions and a roof conversion¹ and a larger single-storey rear extension² had prior approval granted later that year, however these extensions have not yet been built. The appeal proposal would see the addition of a first-floor extension above the main dwellinghouse to create a second storey.
8. The Council asserts that the proposed first-floor together with the existing extension would increase the floor area of the original property by 297%. The appellant contests this figure on the grounds that the Council have used a different and smaller interpretation of the 'original building' than they used for the granting of the extensions under the Certificate of Lawful Development and prior approval. Based on the 'original building' as used in those applications, the appellant calculates that the increase in floor space would be 39.62% above the original building. The appellant further states that the existing car shed would be removed as part of this proposal and that this would result in an overall reduction in floor space and footprint of the buildings on the site.
9. However, the appellant calculates that the recently granted extensions would increase the footprint of the original building by around 177% and the floor area by approximately 128%. The appellant states that these extensions form a fall-back position should the appeal proposal be dismissed and suggests that a condition could be used to remove permitted development rights and therefore prevent the side and rear extensions from being built. However, such a condition would only come into force once the planning permission for the first-floor extension has been implemented, and therefore such a condition would not prevent permitted development extensions being added before the permission is commenced.
10. The Framework resists additions over and above the size of the original building. Size is more than a function of floorspace and volume and can include bulk, mass, and height. The proposed extension, although it would be partly

¹ Planning application ref. 20/01583/LDCP

² Planning application ref. 20/02286/NCS

screened by the existing landscaping and boundary treatment, would considerably increase the massing at the first-floor level and would significantly add to the visual and volumetric impact of the building. Consequently and despite the removal of the car shed, the first-floor extension would, together with the existing and approved extensions, cumulatively amount to a disproportionate addition over and above the size of the original building. The proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

Openness

11. Openness is an essential characteristic of the Green Belt. The Planning Practice Guidance states that openness is capable of having both spatial and visible aspects, so that both the visual impact of the proposal and its volume may be relevant.³
12. The proposed extension would increase the visual and spatial bulk and massing of the dwelling and would therefore result in a reduction in the openness of the Green Belt. However, given the backdrop of the surrounding industrial use and existing mature planting to the boundaries of the site, that harm would be limited. Nonetheless, one of the fundamental aims of Green Belt policy is to keep land permanently open and, having regard to the Framework, I afford this harm substantial weight.

Other Considerations

13. I note that the proposal would assist with meeting the needs of the disabled friend of the appellant although it is not clear if the appellant's friend is a resident at or visitor to the appeal property. I must also have due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability. It does not follow from the PSED that the appeal should succeed. However, I am required to have due regard to the duty in arriving at my decision.
14. I do not doubt that the proposals would provide more space at the property. Nonetheless, this must be balanced with the significant adverse impacts of the proposal identified earlier. I am not persuaded that there are no alternatives to the proposal, including the permitted development extensions, that could deliver substantially the same benefits without conflict with the development plan. Therefore, while I acknowledge the personal circumstances of the appellant's friend, I conclude that these are not matters which outweigh the harm that would be caused by the proposal in respect of the main issue.
15. The proposal would also provide additional space for occupiers of the appeal property, including space for an art studio. I have no evidence before me that the required space could not be provided through the permitted development extensions. Furthermore, I note that the submitted floorplans show the proposed first-floor containing bedrooms and bathrooms and does not show any space for an art studio. I therefore attach limited weight to this matter.

³ Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

16. The proposal would see the removal of the car shed which is in poor condition, although the shed is well screened by the existing boundary treatment and is only partly visible when the entrance gate is open. Given the modest scale and limited visibility of the car shed I attach moderate weight to the improvement of the appearance of the appeal site that would result from the removal of the car shed.

Whether very special circumstances exist

17. The proposed extension would cause harm to the Green Belt by way of inappropriateness and reduction in openness, to which I afford substantial weight.
18. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The other considerations identified above do not clearly outweigh the totality of the harm. Consequently, the very special circumstances necessary to justify the front extension do not exist.

Conclusion and Recommendation

19. Accordingly, the proposal would conflict with saved policy 2 of the DLP, policy SP5 of the emerging LP and with the Framework. There are no material considerations which indicate that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and I agree with the recommendation that the appeal should be dismissed.

Chris Baxter

INSPECTOR