



Appeal Decision

Site visit made on 5 October 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/B1930/W/21/3287291

Nicholls Farm, The Barn, Lybury Lane, Redbourn AL3 7JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Lee Turner against the decision of St Albans City Council.
- The application Ref 5/21/2378, dated 13 August 2021, was refused by notice dated 12 November 2021.
- The application sought planning permission for change of use from general industrial to Class C3 (residential), retention of swimming pool and associated landscaping and decking and ancillary barn for garage and office following demolition of previous industrial building (retrospective) without complying with conditions 1 and 3 attached to planning permission Ref 5/20/2784, dated 21 May 2021.
- The conditions in dispute are numbers 1 and 3 which state that:
Condition 1. The development hereby permitted shall be carried out in accordance with the following approved plans: DNG No.'s 0051-001_P1, 0051-08_P1, 0051-10_P1, 0051-09_P1, 0051-03_P2.
Condition 3. Within 6 months of the date of this permission the roof of the garage shall be altered in accordance with the approved plans (DNG No. 0051-09_P1).
- The reasons given for the conditions are:
Condition 1. For the avoidance of doubt and in the interests of proper planning.
Condition 3. As the site is within the Metropolitan Green Belt the development would otherwise be harmful. To comply with Policy 1 and 13 of the St. Albans District Local Plan Review 1994.

Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission Ref 5/20/2784 (the consented scheme) has been granted for: 'Change of use from general industrial to Class C3 (residential), retention of swimming pool and associated landscaping and decking and ancillary barn for garage and office following demolition of previous industrial building (retrospective)'.
3. Condition 3 of the consented scheme requires that within 6 months of the date of that decision, the existing garage /office building is altered in accordance with approved plan (DNG No. 0051-09_P1). The approved plan proposes a flat roof instead of the existing pitched roof.
4. This appeal seeks to vary condition 3 to allow amendments to the approved garage. Principally, this incorporates a shallow pitched roof. An extension of

time to undertake the necessary alterations is also sought. The variation of condition 1 is to reflect the proposed drawing.

5. The application is made under section 73 of the Town and Country Planning Act 1990 to vary conditions associated with a planning permission. These provisions can be used to seek a minor material amendment. However, having regard to the reason for condition 3 and the evidence before me, the approved garage forms part of a wider redevelopment proposal for a site within the Green Belt. As such, the main issues are whether the disputed conditions are reasonable and necessary in respect of the following matters:

- Whether the proposal would result in inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and relevant development plan policies;
- The effect of the proposal on the openness and purposes of the Green Belt; and,
- 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 required to justify the proposal.

Reasons

Inappropriate development

6. Policy 1 of the St. Albans District Local Plan Review (1994) ('LP') sets out the extent of the Green Belt and specifies certain types of development which would be acceptable in the Green Belt. The proposal before me does not fall under any of those accepted forms of development.
7. Policy 13 of the LP supports extension to houses in the Green Belt, including garages or outbuildings, however this is subject to considerations in relation to scale and visual impact.
8. Both the above policies pre-date the Framework. Furthermore, together these policies do not recognise the full extent of exceptions to inappropriate development detailed in the Framework. In this regard, these are therefore inconsistent with the Framework to which I attach greater weight.
9. The consented scheme was determined and found to be acceptable having regard to what was then Paragraph 145 (g) of the Framework and has now been replaced by Paragraph 149 (g) in the current version of the Framework. This supports 'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which do not have a greater impact on the openness of the Green Belt than the existing development;'.
10. Although the development that pre-existed on the site has been removed, I have been provided with sufficient information in respect of this, including its layout, form and volume which is not disputed by the Council.
11. There would be an increase in footprint between the development that pre-existed and what is proposed. Nevertheless, the footprint increase would be no different to the consented scheme.

12. However, even if I were to accept that there is no change between the volume of the buildings that pre-existed at the site and those that form part of the proposed scheme, which includes the proposed garage. The latter is appreciably larger than the garage that existed on the site and would also be located closer to the site's northern boundary. Consequently, this would be more visually dominant in views from the north and north east, and thereby would have a greater visual impact on the site than the development that pre-existed on the site. This would have an erosive effect on the visual openness of the Green Belt.
13. As such, the proposal would be inappropriate development under Paragraph 149 (g) of the Framework.
14. The appellant argues that the proposal relates to the alteration of a consented building and therefore falls to be considered under paragraph 149(c) of the Framework, which supports '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;'.
15. 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.' In this case, the consented building (flat roofed garage approved under planning permission 5/20/2784) does not exist. As such the proposal does not benefit from the exemption under paragraph 149 (c) of the Framework.
16. For the above reasons, and because the proposal does not fall to be considered under any other exemption under paragraph 149 of the Framework, the proposal would be inappropriate development in the Green Belt.

Openness and purposes of the Green Belt

17. Paragraph 137 of the Framework, states that the essential characteristics of Green Belts are their openness and their permanence. The extent to which a proposal may cause harm to openness, might depend on factors such as its spatial and/or visual implications. This is a matter of planning judgement.
18. Having found that the proposal would result in a greater visual impact, this would harm the openness of the Green Belt.
19. However, because the appeal site comprises a developed site, the proposal would not conflict with any of the purposes of the Green Belt as set out under paragraph 138 of the Framework.

Other Considerations

20. Although the proposed garage would have a reduced eaves height relative to the consented garage, because of its pitched roof, overall, it would be a taller building with a greater volume and mass. Therefore, the proposed garage is noticeably larger in scale than the consented garage.
21. The appellant argues that the consented garage is visually unappealing and of poor design because it fails to relate to the host building which incorporates a pitched roof. However, the approved scheme was considered in light of national and local planning policies and found to be acceptable. Moreover, the flat roof design of the garage formed part of the Council's assessment that the consented scheme would not be inappropriate development in the Green Belt.

22. I have also had regard to the appeal decision for a previous development at the appeal site, in which the Inspector acknowledged that its design was sympathetic to its surroundings. Nevertheless, that appeal was dismissed and related to a garage/office building of a different design. As such, this attracts little weight in favour of the proposal.
23. For the above reasons, I attach limited weight to the differences in scale and any perceived design benefits of the proposal, relative to the consented garage.

Planning Balance and Conclusion

24. The proposal amounts to inappropriate development in the Green Belt, which would by definition be harmful to it. There would also be some harm to the openness of the Green Belt.
25. The Framework is clear that substantial weight should be given to any harm to the Green Belt and very special circumstances 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.
26. Whilst I have had regard to the other considerations, they do not clearly outweigh the totality of harm the scheme would cause. Consequently, the very special circumstances to justify the inappropriate development do not exist. Therefore, the proposal is contrary to the aims of policies 1 and 13 of the LP and the Green Belt provisions of the Framework.
27. For the above reasons, I conclude that condition 3 is reasonable and necessary with regard to protecting the Green Belt. Accordingly, it is not necessary to vary this or condition 1 and the appeal should be dismissed.

M Aqbal

INSPECTOR