



Appeal Decision

Site visit made on 25 October 2022

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/J1915/W/21/3286224

Tylers Cottage Tylers Causeway, Newgate Street, Hertford SG13 8QN

- 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 M Karachristou against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0965/FUL, dated 13 April 2021, was refused by notice dated 8 June 2021.
 - The development proposed is the erection of a dwelling following demolition of the existing dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site and the position of the proposed dwelling straddle the boundary between the Council and Welwyn Hatfield Council (WHC), who have also refused permission for the proposal. This is the subject of a separate appeal¹.
3. I note this appeal is accompanied by a different site layout plan (drawing number 07) than the other appeal concerning the site. The difference between the plans relates to the siting of a bin store. I have determined each appeal on its own merits with regard to the evidence that has been placed before me.

Main Issues

4. The main issues are:
 - whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the development on protected species; and
 - whether the 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.

¹ APP/C1950/W/21/3286231

Reasons

Inappropriate development

5. The site is located within the Metropolitan Green Belt. The Framework identifies at paragraph 137 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework confirms that new buildings are inappropriate in the Green Belt unless it is one of the exceptions listed. A replacement building is not inappropriate provided it is in the same use and not materially larger than the one it replaces. There is no dispute in this case the proposed building will be in the same use as the existing. It is also not in dispute that the garage and outbuilding to either side of the dwelling are in sufficient proximity that for Green Belt purposes they can be considered to form part of the dwelling.
6. The East Hertfordshire District Plan 2018 (the District Plan) Policy GBR1 confirms that development within the Green Belt should be considered in line with the provisions of the Framework.
7. The Framework does not define or provide guidance on the interpretation of 'materially larger'. In their report, the Council considered that the increase in external floor area resulted in the replacement dwelling being materially larger. The appellant has set out in his statement the existing and proposed details of the building in terms of footprint, external floorspace, internal floorspace and volume. The appellant acknowledges the increase in floorspace as 'small' but notes the footprint of the building would be 'significantly reduced' and the increase in volume would be 5%.
8. While the replacement dwelling would have a smaller footprint and a limited increase in volume, there would be a 58sq m increase in the external floorspace and a 48sq m increase in the internal floorspace, which equate to a 24% and 23% increase respectively. I consider that would be materially larger than the existing dwelling. As such, the proposal would not fall within exception d) of Paragraph 149 of the Framework.
9. The appellant has also put forward that the proposal could be considered against exception g) of Paragraph 149 of the Framework. This is a conditional exception which, as it relates to this appeal, allows for the redevelopment of previously developed land subject to it not having a greater impact on the openness of the green belt than the existing development. It is not in dispute that the site is previously developed land.
10. The second part of the Paragraph 149 g) exception requires consideration of openness. Paragraph 137 of the Framework states 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. Openness is the absence of development and can have spatial as well as visual aspects.
11. The existing dwelling is stepped and limited in depth, with single storey sections to either side of the two-storey central section of the dwelling. The proposed dwelling would be in a similar position, slightly smaller in height than

the existing. It would also occupy less of the width of the plot due to its design and the removal of the single storey garage and shed sited to either side.

12. The appellant suggests that as a result the proposal would allow for greater views from the street through the site and suggest a greater spaciousness around the dwelling; however, the replacement dwelling would be entirely two-storey and would have notably more depth than the existing dwelling. Despite seeking to minimise its mass through the use of gables, the appeal proposal would be perceived as a more substantial dwelling than that on the site at present due the increased depth and substantial roof structure. This would harm the openness of the Green Belt.
13. Furthermore, the appeal plans show a timber frame pergola to serve as a car barn and a parking court to be sited adjacent to the dwelling. These demonstrate that there would be related domestic paraphernalia sited on the land further reducing openness.
14. For these reasons, when considered as a whole, the appeal proposal would constitute inappropriate development in the Green Belt as it would not meet any of the exceptions set out in paragraph 149 of the Framework and would therefore be contrary to Policy GBR1 of the District Plan. Paragraph 147 confirms that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on protected species

15. The appellant has submitted an ecological survey and assessment as part of the appeal and states this was submitted to the Council. This states the site was visited on 6 July 2021 and as such post-dates the Council issuing its decision. A copy of comments provided to WHC by Hertfordshire Ecology with regard to this issue were also included. The Council has not made any further comments regarding this document as part of its submissions to this appeal.
16. WHC made a representation to this appeal which included a copy of their officer report and decision notice in relation to the application which had been made to them for this development. This confirms the comments made by Hertfordshire Ecology as submitted by the appellant.
17. The ecological survey found no evidence of the presence of bats and that the site lacked potential roosting places. I have no reason to disagree with these findings. In relation to this matter, I therefore find that sufficient information has been submitted to ascertain that there would not be an effect on protected species and that the proposal would not be contrary to District Plan Policy NE3.

Other considerations

18. The appellant has submitted a decision notice² and plans which confirmed that prior approval was not required for the erection of a single storey rear extension 8m in depth and 3m in height and to the eaves. The appellant has indicated they would erect this extension were this appeal to be dismissed and I have no reason to dispute this. It therefore represents a realistic fallback position.

² 3/20/2245/PNHH confirmed prior approval was not required on 17 December 2020

19. The fallback scheme would be unlikely to be visible in public views of the site. However, it would inevitably reduce the openness of the Green Belt by occupying space that was previously undeveloped. As a single storey extension, it would not result in the increase in the mass and bulk of the dwelling that I have identified above as harmful. As I have found that the appeal proposal would harm the openness of the Green Belt, allowing it would therefore not confer a benefit as the harm would not be avoided. This reduces the weight I attach to the fallback position.
20. I accept that the proposal would address the 'sprawling' characteristics of the current dwelling and as such could provide for improved living conditions for future occupants of the property. However, this would be a private benefit and as such would attract limited weight.
21. I have found that the proposal would constitute inappropriate development in the Green Belt and paragraph 148 of the Framework states that substantial weight should be given to this. While there would not be harm to protected species, this is a neutral factor in the planning balance. I have attached limited weight to the fallback position for the reasons given above. 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.

Conclusion

22. The development conflicts with the development plan taken as a whole and there are no material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is dismissed.

J Downs

INSPECTOR