



Appeal Decision

Site visit made on 17 January 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 January 2023

Appeal Ref: APP/J1915/D/22/3294733

St. Josephs Villa, St. Marys Lane, Hertingfordbury SG14 2LX

- 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 Caroline Birchinall against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2733/HH, dated 27 October 2021, was refused by notice dated 10 January 2022.
 - The development proposed is construction of single storey side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The evidence before me indicates that Hertingfordbury Park House is a grade II listed building. The appeal site is within close proximity to this building. Indeed, it shares the private access road. The Council did not refuse the planning application on the basis of the effect of the development on the significance of this building. Nonetheless, under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to have special regard to the desirability of preserving the listed building, its setting and any features of special architectural or historic interest. As such, I have dealt with this matter as a main issue.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposed development on the character and appearance of the area including the effect of the proposed development on the nearby listed building.
 - If the proposal is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

4. The appeal site is located within the Green Belt. District Plan¹ Policy GBR1 states that planning applications in the Green Belt will be considered in accordance with the provisions of the National Planning Policy Framework (the Framework).
5. Framework Paragraph 149 states that the construction of new buildings in the Green Belt should be regarded as inappropriate development, except in certain circumstances. One such exception is set out under Framework Paragraph 149C, which relates to 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.
6. The Framework does not include guidance on what is considered to be 'disproportionate'. Whether or not extensions and alterations are disproportionate is a matter of planning judgement, having regard to the particulars of a proposed development and the relevant site-specific circumstances.
7. The Framework glossary defines an 'original building' as 'a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally'.
8. On the basis of the evidence before me and my observations during the site visit, the building has been extended relatively significantly since the 1980's with various planning permissions granted for extensions and a garage.
9. The Council asserts that, when taking into account the proposed development combined with previous extensions, there would be a 233% increase in floorspace over the original floorspace of the dwelling. It is not possible to accurately determine the veracity of the figure provided by the Council in this regard. In any case, a consideration of 'size' goes well beyond a comparison of floorspace.
10. Even taking a conservative approach, assuming that minimal or no extensions to the original dwelling have been erected, the proposed side extension is so large, in terms of its width, mass and footprint, that it would significantly increase the size of the existing dwelling. The effect of this in terms of proportionality is compounded by the extensive coverage of the proposal, which would partially wrap around the building and boundary of the appeal site.
11. For these reasons, despite the fact that it would be single storey, the proposed development would result in disproportionate additions over and above the size of the original building. It would not therefore fulfil the exception at Framework Paragraph 149C and it would be inappropriate development.

Openness

12. Framework Paragraph 137 states that the essential characteristics of Green Belts are their openness and permanence. An assessment of openness involves a consideration of both spatial and visual aspects.

¹ East Herts District Plan (October 2018)

13. From a spatial perspective, the area proposed for the siting of the development is currently free from development. The proposal would introduce a large, albeit single storey extension and as a result, there would be a noticeable moderate reduction in the spatial openness of the Green Belt.
14. The site makes a minimal contribution to the openness of the Green Belt from a visual perspective, as a result of the undulating topography of the surrounding landscape and the predominance of mature trees in the surrounding area. Nonetheless, there are some very limited views over the site (from the frontage) towards more open surroundings and there would be a minimal reduction in visual openness in this regard.
15. The fact that the visual and spatial harm would only be appreciable from private areas does not reduce its impact to a significant degree. This is because the private drive is shared by a fairly significant number of neighbouring properties.
16. In summary, there would be a moderate spatial reduction and a minimal visual reduction in the openness of the Green Belt. It would therefore fail to preserve its openness.

Character and appearance

17. The surrounding area is characterised by a mixture of development, including large residential properties. Neighbouring buildings vary in size, orientation and appearance. However, they are predominantly set within spacious plots. Where properties have been extended, these extensions are typically subservient and not prominent when viewed from the shared private drive.
18. The proposed extension would extend a significant distance along the side boundary of the host property. Whilst single storey, the roof pitch would be a dominant height. These factors, combined with the prominent position of the extension (visible to the front and side of the property), would result in a development which would not respect the scale of the host property and would not reflect the more spacious character of surrounding development. This harm would be apparent regardless of whether the proposed materials were altered.
19. For these reasons, the proposed development would have a harmful visual impact upon the character and appearance of the area. It would therefore conflict with District Plan Policies DES4 and HOU11, which collectively require that development promotes local distinctiveness and is in keeping with local character. The appellant also cites District Plan Policy HOU13 which relates to residential annexes. The proposal would also conflict with criterion (b) of this policy, which requires that such development does not dominate the existing dwelling. The appellant cites 'Policy ENV5' but I have not been provided with a copy of this policy.
20. The proposed development is also in close proximity to Hertingfordbury Park House which the appellant's evidence indicates is a grade II listed building. Whilst I note that the Council has concluded that there would not be any harm to heritage assets, it is by no means clear whether it considered the effect of the proposal on the setting of this nearby listed building.
21. Framework Paragraph 194 requires applicants to describe the significance of any heritage assets that may be affected by a proposal including any contribution made by their setting. It goes on to advise that this should be

proportionate to the assets importance and sufficient to understand the potential impact of a proposal on its significance when assessed using appropriate expertise.

22. In this particular instance there is no substantive evidence to indicate that the appellant undertook such an assessment, with only limited details provided to indicate that there is a nearby listed building. Given that I have identified harm which would arise in respect of character and appearance, insufficient information has been provided to establish or rule out any harm to the significance of the heritage asset. The proposal is therefore contrary to Framework Paragraph 194.

Other Considerations

Personal circumstances

23. The appellant states that the extension is intended to provide accommodation for an elderly and disabled family member. Indeed, the plans show that the extension would be accessible to wheelchair users. I accept that the extension is of a size which is commensurate with meeting these requirements. There is also general support for specialist housing under District Plan Policy HOU6 and an emphasis in the District Plan text on providing housing for older and vulnerable people. The appellant also cites policy HOU7, but this relates to accessibility requirements for 'new homes' as opposed to extensions to existing homes.
24. On the basis of the evidence before me, the benefit of providing accommodation for a disabled and elderly family member is one which can be attributed significant weight, particularly within the general context of support within the Local Plan.
25. However, the weight to be afforded to this benefit is not as great as it might have been had the appellant provided further evidence to establish whether alternatives had been considered. For example, the prospect of providing accommodation within the existing dwelling, within part of the dwelling combined with a smaller (less prominent) extension or within alternative specialist local accommodation. Furthermore, very little substantive evidence has been provided to explain the specific needs of the family member or to demonstrate that 24/7 care at the host property is required.

Other planning permissions

26. The appellant has referred to other planning permissions granted for development nearby². However, the case specific details of each of these decisions are not before me. However, in both cases the decisions were made in a materially different local and national planning policy context. With this in mind, these neighbouring permissions do not provide any justification for the proposed development.

Conclusion

27. The scheme would be inappropriate development, which by definition, would be harmful to the Green Belt. There would also be a small spatial and visual reduction in the openness of the Green Belt as a result of the proposed

² LPA refs: 3/03/1837/FP and 3/05/1484/FP

- development. Framework Paragraph 148 states that any harm to the Green Belt should be attributed substantial weight.
28. Framework 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 148 states that 'very special circumstances' will not exist unless the potential harm to the Green Belt and any other harm, is clearly outweighed by other considerations.
29. I attribute significant weight to the personal circumstances highlighted by the appellant. However, insufficient substantive information has been provided to demonstrate that those circumstances clearly outweigh the harm to the Green Belt and the other moderate harm to the character and appearance of the area.
30. Indeed, even if I were to seek additional evidence in this regard, given the absence of information pertaining to the nearby heritage asset, it would still not be possible to ascertain whether very special circumstances existed. This is particularly the case given the statutory protection afforded to listed buildings.
31. In conclusion, whilst there are some significant benefits associated with the proposed development, the substantial weight to be given to Green Belt harm and other harm is not clearly outweighed by the other considerations. Therefore, the very special circumstances necessary to justify the proposal do not exist. The proposed development therefore conflicts with District Plan Policy GBR1³, which outlines that applications in the Green Belt should be determined in accordance with the Framework.
32. As such, having regard to the development plan as a whole and all other relevant material considerations, the appeal should be dismissed.

Luke Simpson

INSPECTOR

³ The appellant refers to Policy GBC1 of the East Herts Local Plan Second Review 2007 but no copy was provided.