



Appeal Decision

Site visit made on 30 January 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st February 2023

Appeal Ref: APP/N5090/D/22/3306456

56 Hendon Wood Lane, London NW7 4HR

- 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 Michael Kingsley against the decision of the Council of the London Borough of Barnet.
 - The application Ref 22/2847/HSE, dated 27 May 2022, was refused by notice dated 1 September 2022.
 - The development was originally described as proposed basement extension.
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Decision

1. The appeal is allowed and planning permission is granted for the extension of existing basement, including insertion of one lightwell, and enlargement of rear patio at 56 Hendon Wood Lane, London NW7 4HR in accordance with the terms of the application Ref 22/2847/HSE, dated 27 May 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, 512021/03 Rev H (Proposed basement plan), 512021/04 Rev G (Proposed ground floor plan), 512021/05 Rev C (Proposed elevations and section).
 - 3) Construction works shall take place only between 08:00 – 18:00 Mondays to Fridays, 08:00 - 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

Preliminary Matters

2. I have used the address provided on the decision notice and appeal form rather than that provided on the application form in the heading and formal decision above as this is more accurate. Furthermore, the main parties were given the opportunity to comment on the description of development in the formal decision above which has been amended to ensure that it accurately reflects the proposed development. The appellant confirmed that they agreed to the altered description.

Main Issues

3. The main issues are:

- Whether the proposal 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 proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the host dwelling and 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

Whether inappropriate development

4. No 56 is a large, newly constructed, detached dwelling set back from the highway and situated within a substantial plot. The dwelling is two-storey in height with accommodation within the roof and an existing basement. The proposed development seeks to extend the basement.
5. Policy DM15 of the Barnet's Local Plan: Development Management Policies (2012) (DMP) states, amongst other things, that development proposals in the Green Belt are required to comply with the Framework, and extensions to buildings in Green Belt or MOL will only be acceptable where they do not result in a disproportionate addition over and above the size of the original building or an over intensification of the use of the site. Policies CS1 and CS7 of the Barnet's Local Plan: Core Strategy (2012) (CS) also seek to protect the Green Belt. Furthermore, Policy G2 of The London Plan (2021) (LP) states that the Green Belt should be protected from inappropriate development and development proposals that would harm the Green Belt should be refused except where very special circumstances exist.
6. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. Under section c) of that paragraph an extension to a building will not be inappropriate provided that it would not result in disproportionate additions over and above the size of the original building.
7. The Framework 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. A similar definition is also provided in the Council's Residential Design Guidance: Supplementary Planning Document (SPD). The existing building replaced a previous building. Therefore, based on the evidence presented and having regard to the definition of 'original building', in this case the original building is the replacement dwelling, as originally built.
8. The Framework and local planning policies do not specify what might be considered a disproportionate addition over and above the size of the original building. The Council state that as a rule of thumb any extension consisting of about 25% to 28% increase over and above the original, footprint and volume is considered not to have an adverse impact on the openness of Green Belt and not inappropriate development in the Green Belt. The SPD states that as a guiding principle the volume of the original dwelling should not be increased by more than 25% by external measurement in order to protect openness.

9. The officer's report refers to a previously refused planning application¹, also for a basement extension. The lightwell has been reduced in size, and the Council consider the size and position of the lightwell to be acceptable.
10. Both the appellant and Council set out the numerical increase of the proposed basement. It appears that the Council's calculations are based on the increase in footprint and volume of the basement compared to the existing basement. However, the test to apply is whether the extension would be a disproportionate addition over and above the size of the original building, rather than disproportionate to the existing basement.
11. The proposed development is for a large extension and would result in the basement being substantial. However, the original building is of a significant size. When considering the size of the original building and taking into account the numerical figures highlighted by the appellant, the proposed basement extension would not be excessive and would not be disproportionate. Therefore, it would not conflict with the SPD.
12. The proposed drawings also show a 3m patio area, and the planning statement submitted with the planning application clearly sets out that this forms part of the proposal. The Council has not raised any concerns in relation to this element of the proposal, and I see no reason to take an alternative view.
13. For these reasons and based on the evidence submitted, the proposed development would not result in disproportionate additions over and above the size of the original building. Consequently, it would comply with Policies CS NPPF, CS1, CS7 of the CS, Policy DM15 of the DMP, Policy G2 of the LP and paragraph 149 c) of the Framework. I therefore conclude that the proposal would not be inappropriate development in the Green Belt.

Openness

14. As I have found that the proposed development would not be inappropriate development in the Green Belt, there is no requirement for a subsequent assessment of the effect of the development on the openness of the Green Belt, or the impact on Green Belt purposes.

Character and appearance

15. Whilst not referred to in the reason for refusal, the officer's report refers to the SPD. This states that the council seeks to ensure that basement development does not harm the established architectural character of buildings and surrounding areas, including gardens and nearby trees. Furthermore, the council will normally allow single floor basement extensions which do not project further than 3 metres from the rear wall of a house or more than half its width beyond each side elevation.
16. The proposed development would clearly conflict with this guidance as it projects further than 3m. As acknowledged above, the proposed development is for a large extension and would result in the basement being substantial. However, the host property is of a significant size and benefits from a large garden. Similarly, this part of Hendon Wood Lane is characterised by large, detached dwellings situated within substantial plots.

¹ 22/0060/HSE

17. The scale of the proposed development would be hidden from view given its nature as a basement. The proposed lightwell and patio area would also not be conspicuous from public vantage points due to their location to the rear of the property and large garden.
18. Consequently, having regard to the size of the host dwelling and character of the surrounding area, the basement would not be excessively large or a disproportion addition. It would be proportionate to the host dwelling and a subordinate addition. The scheme would therefore accord with the overarching aims of the SPD as the development would not cause harm to the established architectural character of the building and surrounding area.
19. For these reasons, having regard to the size, design and scale of the proposal, the proposed development would not cause harm to the character and appearance of the host dwelling and Green Belt. Accordingly, it would comply with the overarching aims of Policy DM01 of the DMP and Policies D1 and D4 of the LP. These seek, amongst other matters, to ensure proposals preserve or enhance local character and respect the appearance, scale, mass, height and pattern of surrounding buildings, spaces and streets. It would also comply with chapter 12 of the Framework which promotes good design and seeks to ensure developments are sympathetic to local character.

Other considerations

20. Given that the proposed development would not amount to inappropriate development in the Green Belt, there is no need for me to assess other considerations, and whether very special circumstances exist in order to justify the development.

Other Matters

21. The reason for refusal, and officer's report, refer to Policy D10 of the LP. It is not clear why the Council considers the proposal conflicts with this policy. The policy states that boroughs should establish policies in their Development Plans to address the negative impacts of large-scale basement development beneath existing buildings, where this is identified as an issue locally.
22. There is no clear information before me to suggest that basement developments have been identified as an issue locally. The appeal site is not located in a high density area. There are residential properties in the locality, but they are situated on large plots and given the distance to the nearest residential properties I am satisfied, subject to an appropriate planning condition relating to construction hours, that the proposed development would not cause significant disturbance and disruption or unacceptable harm. There is also not evidence before me to suggest that the development would impact structural stability or cause flooding/ drainage issues. I am satisfied that the proposal would comply with Policy D10 of the LP.

Conditions

23. It is necessary to attach a condition specifying the approved plan as this provides certainty. A condition restricting construction hours is necessary, in the interests of the amenity of neighbouring occupiers. This condition was not recommended by the Council, but the main parties were given the opportunity to comment on the condition. The appellant confirmed that they agreed to the condition.

24. A condition ensuring that the external surfaces match those used in the existing building, as suggested by the Council, is not necessary. This is because the proposed development relates to a basement, therefore concealed underground, and the proposed lightwell and patio are to the rear and would not be conspicuous.

Conclusion

25. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, the appeal succeeds.

L Wilson

INSPECTOR