



Appeal Decision

Site visit made on 24 January 2023

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2023

Appeal Ref: APP/H1515/D/22/3292691

Little Oakhurst, 78 Coxtie Green Road, Pilgrims Hatch, South Weald, Brentwood CM14 5RP

- 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 and Mrs B Bowler against the decision of Brentwood Borough Council.
 - The application Ref 21/01789/HHA, dated 18 October 2021, was refused by notice dated 24 December 2021.
 - The development proposed was originally described as the erection of an outbuilding for the purposes of garden room and gym space.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an outbuilding for the purposes of garden room and gym space at Little Oakhurst, 78 Coxtie Green Road, Pilgrims Hatch, South Weald, Brentwood CM14 5RP in accordance with the terms of the application, Ref 21/01789/HHA, dated 18 October 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. I am considering the appeal retrospectively, as the building is in situ. An updated Heritage Statement and indicative landscaping scheme were provided as part of the appeal. Neither have altered the development before me. In this regard, no party has been prejudiced by my consideration of these documents as part of the appeal.
3. Since the submission of the appeal the Council has adopted the Brentwood Local Plan (LP) (2022). The policies in the LP supersede the policies of the Brentwood Replacement Local Plan (RLP) (2005) referred to within the Council's decision notice. Moreover, the Council has approved a planning application (22/00999/HHA) for the 'Demolition of 3 existing outbuildings (denoted A, B and C) and the construction of a new garden room (retrospective)' (the approved development) since the submission of the appeal.
4. The approved development included a condition requiring a landscaping scheme to be agreed and implemented. The appellants also offered to undertake additional landscaping in the appeal submission before me if I considered such a condition to be reasonable and necessary. The appellants have requested the need for this to be re-evaluated as part of my appeal decision. Both parties have had the opportunity to comment on these matters.

Main Issues

5. The main issues are:

- whether the development is 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 the openness of the Green Belt;
- The effect of the development on the setting of Little Oakhurst, a grade II listed building; and
- If it is 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 the development.

Reasons

Inappropriate development

6. Policy MG02 of the LP stipulates, amongst other things, that the Green Belt will be preserved from inappropriate development so that it continues to maintain its openness and serve its key functions. It goes on to say that all development in the Green Belt will be considered and assessed in accordance with the provisions of national planning policy. This is set down in the Framework.
7. Paragraph 149 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development. However, the Framework lists certain forms of development which are not regarded as inappropriate. This includes 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 (paragraph 149(c)). Alternatively, insofar as they relate to this development, the list of exceptions also includes the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces (paragraph 149(d)).
8. The courts have held that some outbuildings may be considered as extensions on the basis that they are 'normal domestic adjuncts'. The outbuilding is in the garden of the host property and is to be used as an ancillary building to the house. However, and notwithstanding the findings of the Council on this matter, due to the large separation distance and positioning at the bottom of the garden, I do not consider that it constitutes an extension to the dwelling. It does not thus fall to be considered against paragraph 149(c) of the Framework.
9. The appellants have provided details of the building that the development has replaced. This indicates that the building before me measures 40m² with a volume of 130m³. In contrast, the previous building measured 20m² with a volume of 65m³. Whilst the building before me does not represent an overly large structure, it has doubled the footprint and volume of the building that it replaced. It thus, is materially larger, and does not therefore accord with paragraph 149(d) of the Framework.
10. I therefore find that the development is inappropriate development in the Green Belt and is at odds with Policy MG02 of the LP and paragraph 149 of the Framework, insofar as they relate to this matter.

Openness

11. As set out in paragraph 137 of the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, the essential characteristics thereof being its openness and permanence. The physical presence of built forms may affect openness, and this can have both a visual and a spatial element.
12. The appellants propose to remove two other existing buildings (referred to in the submissions as Existing Buildings B and C). This is not reflected on the proposed plan where they remain shown. However, it is put to me that this could be secured by way of a condition were I minded to allow the appeal. Although the Council dispute the accuracy of the existing building plans, the Council has not provided any firm details, or alternative figures. The lightweight covered lean-to element is not shown on the Existing Building C plan. However, I have no reason to find the buildings in situ smaller than that shown on the plans.
13. The removal of Existing Buildings B and C would result in a small net reduction in built form within the grounds of the appeal property. Moreover, their removal would bring the built form into one specific location within the grounds, rather than several piecemeal buildings.
14. In this regard, I find that there would be a small improvement to the openness of this part of the Green Belt taking both the spatial and visual elements into account. As such, I do not find conflict with the relevant Green Belt guidance within the Framework or Policy MG02 of the LP, insofar as they relate to this matter.

Setting of listed building

15. The appeal property is a two-storey detached timber framed dwelling originally constructed in the mid C17 with later additions. It is characterised by its distinctive timber weatherboarding with some brickwork and its peg-tiled roof. It is visible from the road, and positively contributes to the attractive rural village streetscape, along with other timber framed listed buildings nearby. Although the building is reasonably close to the road, it is set within large grounds with space either side, and a large rear garden. The grounds contain several mature trees and vegetation, which positively contribute to the rural setting of the building and its significance.
16. The development before me sits at the bottom of the garden and is visible from the rear of the listed building between vegetation in an open part of the grounds. The vertical cedar cladding, dark aluminium windows and EDPM tiles, contrast with the materials and aesthetics of the listed building. Contemporary design, can, in some circumstances, be an appropriate approach to new additions within the setting of historic buildings. However, in this case, the development does not sit comfortably and clashes with the vernacular style of the existing house.
17. The existing buildings proposed to be demolished do not add to the significance of the listed building. However, they do not detract from its setting either, due to their discrete positions relative to existing vegetation and their muted appearance, irrespective of their structural condition.

18. The degree of visibility between the development and the dwelling from within the grounds draws the eye and competes visually with the listed building. As this occurs within the grounds, and the development is well screened from Coxtie Green Road, the extent of harm is at the lower end of the scale. Nonetheless, there is harm to the setting of the listed building.
19. The approved development includes a condition requiring a landscaping scheme be submitted and implemented. Such landscaping, as illustrated in the indicative landscaping submitted as part of the appeal, would mitigate the degree of visual competition between the listed building and the development from the clash in appearance. In this regard, with such landscaping, the details of which could be secured by way of a condition, I find that there would be a neutral effect on the setting of the listed building overall.
20. I therefore find that the development does not have a harmful effect on the setting of Little Oakhurst, a grade II listed building. On this basis, I find no conflict with Policies BE14 and BE16 of the LP and the provisions of the Framework when taken together. These say, amongst other things, that great weight will be given to the preservation of a designated heritage asset and its setting.

Other considerations

21. The Framework states that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
22. The fallback position of the approved development is a consideration that carries significant weight as the building has been approved and would remain on site irrespective of my findings. Moreover, this approved development also includes the removal of the Existing Buildings B and C and additional landscaping.
23. In addition, there would be a very small improvement to the openness of this part of the Green Belt following the removal of Existing Buildings B and C. Moreover, the benefits to the appellants living conditions carry minor weight as the benefits to the public are minor.

Planning Balance

24. The development is inappropriate development in the Green Belt. Paragraph 148 of the Framework requires decision makers to ensure that substantial weight is given to any harm to the Green Belt. However, in this instance the significant weight I afford to the fallback scheme is a consideration that is sufficient to amount to the very special circumstances necessary to justify the development.

Conditions

25. Condition 1 requires works to be carried out in accordance with the submitted plans and although the building is in situ, the condition provides certainty. Condition 2 requires the removal of Existing Buildings B and C and is necessary in the interests of the openness of the Green Belt and as their removal are not shown on the plans. Condition 3 requires the submission and implementation of a landscaping scheme and is necessary in the interests of the setting of the listed building. Condition 4 requires the outbuilding to remain an ancillary

building to the host property and is necessary in the interests of the amenity of the area.

26. With regards to conditions 2 and 3, there is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use negatively worded conditions to secure the approval and implementation of these matters before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not fulfilled within the period given by the condition, or if the details are not approved by the local planning authority or the Secretary of State on appeal, or if the details are approved but not implemented in accordance with an approved timetable.

Conclusion

27. To conclude, the development would accord with the development plan and Framework when read as a whole.
28. For the reasons set out above, and having regard to all other matters raised, the appeal is allowed subject to conditions.

Mr R Walker

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Titled: Proposed Plans and Elevations – 01; Site Location Plan; Proposed Outbuilding Coxtie Plan; Existing Block Plan Coxtie Green and Drawing Nos: 01; 02 and 03.
- 2) Unless within 3 months of the date of this decision, Existing Buildings B and C (shown on Drawing No: 02 and 03) are demolished and all materials arising from the demolition of these buildings are permanently removed from the site, the use of the outbuilding shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as Existing Buildings B and C are demolished and removed from site.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within 3 months of the date of this decision a scheme of landscaping is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented as approved and in the next planting season, the use of the outbuilding shall cease, and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as the landscaping scheme has been implemented.

The scheme of landscaping shall include details of new trees, shrubs and hedges and a programme for their planting, and any existing trees/hedges to be retained and the measures to be taken for their protection. Upon

implementation of the approved landscaping scheme specified in this condition, that scheme shall thereafter be maintained. Any trees or plants which within a period of 5 years from the implementation of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) The building hereby permitted shall not be used or occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Little Oakhurst, 78 Coxtie Green Road, Pilgrims Hatch, South Weald, Brentwood CM14 5RP.

End of schedule