



Appeal Decision

Site visit made on 1 February 2023

by Chris Preston BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2023

Appeal Ref: APP/P0240/D/21/3288552

Erin House, 171 Dunstable Road, Caddington, Luton LU1 4AN

- 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 Glenden Plant Sales Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/21/04226/FULL, dated 17 September 2021, was refused by notice dated 11 November 2021.
 - The development proposed is the erection of an enclosure for the existing swimming pool.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is located within the Green Belt. The main issues are:
 - i) Whether the proposal would constitute inappropriate development within the Green Belt, including an assessment on the effect of the proposal on the openness of the Green Belt;
 - ii) The effect on the character and appearance of the area; and
 - iii) Whether any harm that may arise in relation to the above issues is outweighed by other material considerations, such as to amount to the very special circumstances needed to justify the proposal.

Reasons

Impact on the Green Belt

3. As set out at paragraph 149 of the National Planning Policy Framework, new buildings within the Green Belt are considered as inappropriate unless they fall within a limited range of exceptions. Policy SP4 of the Central Bedfordshire Local Plan (2021) (the LP) closely follows that national guidance. Of relevance in this instance are sub-paragraphs (b) and (c) of paragraph 149.
4. Paragraph 149(b) allows for the provision of appropriate facilities for outdoor sport and recreation providing that those facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The swimming pool over which the now proposed enclosure would be erected was allowed under that exception. By coincidence I was the Inspector who determined that appeal.

5. As a matter of principle, it seems to me that what the current proposal would do is turn the outdoor swimming pool into an indoor facility such that it would no longer fall under the auspices of that policy. Moreover, whilst the pool itself is set below ground, such that it does not impact on the openness of the Green Belt, the same cannot be said of the proposed enclosure which would extend into space at the side of the dwelling that is free of built development above ground level.
6. It would be substantial in depth and width with a maximum height of 3m. Whilst an attempt has been made to soften the visual impact with the inclusion of a green roof, I find that the proposal would add significant bulk and mass to the side of the existing dwelling. The pool is located closely adjacent to the house such that the effect would be to notably extend the visual footprint of the property to the side. Therefore, taking account of its scale, mass and location, the proposal would cause material harm to the openness of the Green Belt, such that it would not fall within the exception at paragraph 149(b), even if it were considered a facility for outdoor recreation.
7. The Council also contends that the enclosure would encroach into the countryside, contrary to one of the key purposes of including land within the Green Belt. However, the land in question is not countryside, it is a domestic garden that is washed over by the Green Belt. The proposal would be seen in that context and would not encroach onto land beyond the domestic curtilage.
8. There is no specific exception for domestic outbuildings within paragraph 149 but the Courts have held that structures such as garages and summerhouses may be considered as extensions to an existing dwellinghouse, thus falling within paragraph 149(c), where they amount to a normal domestic adjunct. Whether an enclosed swimming pool would fall within that description is a moot point but such buildings are not uncommon when associated with substantial residential properties.
9. In any event, paragraph 149(c) requires that any extension must not result in a disproportionate addition over and above the size of the original building. In this case, that would be the building as originally constructed and it is necessary to take into account the cumulative effect of any previous extensions/ additions as well as the currently proposed scheme. From the extensive planning history it is clear that the dwelling has been extended substantially already, including a large two storey rear extension, and there are numerous outbuildings within the garden. Given the established caselaw in relation to domestic outbuildings and the clearly ancillary nature of the structures in this case it seems reasonable to consider the previous additions in the context of paragraph 149(c).
10. In some local authority areas local plans will contain a specific limit by which a property may be extended without being disproportionate. However, no such limit is set in this instance and the consideration therefore requires the exercise of judgement. Footprint is only one factor to consider and it is also reasonable to take account matters of volume, footprint and visual impact into account.
11. The existing two-storey extension is substantial in scale, not only in footprint but volume and it notably increases the visual depth and massing of the dwelling. There are numerous outbuildings and structures within the garden of a domestic nature. Having regard to the cumulative scale and volume it appears to me that the dwelling has already been extended to the limit of what

may be considered 'not disproportionate'. In my view a further substantial structure in the form of the enclosure would clearly represent a disproportionate addition.

12. Therefore, the proposal would not fall within any of the exceptions listed at paragraph 149 of the Framework and would amount to an inappropriate form of development within the Green Belt, with a consequential reduction in the openness of the Green Belt. The proposal would contravene the aims of the Framework and policy SP4 of the LP as a result.

Character and Appearance of the Area

13. As noted, the enclosure has been designed with a view to minimising its visual impact through the introduction of a curved green roof which would soften views from Dunstable Road. It is set within the existing property which clearly has a domestic air, not only the building itself but the associated garden. In that context, the proposed enclosure would not look out of place or harmful aesthetically. It would not cause harm to the character or appearance of the wider countryside as suggested by the Council. Accordingly, the design and appearance of the enclosure would be of high quality in accordance with the aims of policy HQ1 of the LP.

Other Material Considerations

14. I am mindful of the medical information that has been submitted in relation to the health-related needs of one of the occupants of the dwelling, including physiotherapy reports which have recommended swimming as an activity that will benefit her condition. However, whilst the application was submitted to the Council in a time of national lockdown, that is no longer the case and public swimming pools or private members' pools are now open for use at times when swimming outdoors may not be appealing. There is no reason to suppose that such facilities would not provide a safe and comfortable environment in which to exercise. In warmer and drier periods, the existing pool at the premises is still available for use.
15. Consequently, whilst I give some weight to the personal circumstances described and the benefits associated with having an enclosed facility on site, that weight is tempered by the fact that the information provided does not fully justify the need for an enclosed pool specifically at the dwelling, given that the same benefits could be gained from swimming elsewhere.
16. I note reference to other decisions where schemes have been approved within the Green Belt. However, I am not satisfied that any of the examples are directly comparable with the appeal proposal. Any consideration of personal circumstances and the weight to be attached in any given case will be dependent upon the precise nature of those circumstances. Consequently, the fact that the Inspector granted planning permission for a swimming pool in Kent (Appendix 14 of the appellant's statement) does not dictate that the same decision should be reached in this instance. In any event, the pool in that case was subterranean with a tennis court above, which is notably different to the proposal in this case.
17. Similarly, the fact that a care village and local needs housing scheme have been allowed within the Green Belt close to the scheme does not add weight in favour of the current proposal which is significantly different in terms of its

nature. The balance of weight depending on the harm and benefits of those schemes will inevitably be relative to the nature of the scheme concerned.

18. I note reference to the fact that pools or enclosures may be erected under permitted development rights within the Green Belt. Be that as it may, such rights have been removed in this instance and I am required to assess the proposal against the policies of the development plan and national planning guidance. The fact that permitted development rights may exist elsewhere does not add weight in favour of the scheme.

Planning Balance and Conclusion

19. The proposal would amount to inappropriate development within the Green Belt which would also lead to a reduction in the openness of the Green Belt. It would fail to accord with policy SP4 of the development plan in those respects. Inappropriate development is, by definition, harmful to the Green Belt and I am required to give substantial weight to any harm to the Green Belt, in line with paragraph 148 of the Framework. The very special circumstances needed to justify the proposal will not exist unless that harm is clearly outweighed by other considerations.
20. The proposal is of high-quality design. However, that is a requirement of local policy HQ1 and would be expected of any development. Consequently, compliance with policy in that respect does not add positive weight in favour of the proposal. For the reasons given, I attach moderate weight to the personal circumstances described and the benefits of being able to swim in a private environment on a year-round basis.
21. However, the weight I attach does not clearly outweigh the substantial weight I am required to give to the harm to the Green Belt and the very special circumstances needed to justify the proposal have not been demonstrated. The proposal is contrary to the relevant policies of the development plan, taken as a whole, and there is no justification for taking a decision other than in accordance with that plan. Accordingly, I shall dismiss the appeal.

Chris Preston

INSPECTOR