



Appeal Decision

Site visit made on 8 March 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 May 2023

Appeal Ref: APP/A1910/D/22/3303397

118 Hempstead Road, Kings Langley, Hertfordshire WD4 8AL

- 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 Naeem Akhtar against the decision of Dacorum Borough Council.
 - The application Ref 22/01323/FHA, dated 19 April 2022, was refused by notice dated 17 June 2022.
 - The development proposed is described as 'rear extension ground level with lower extension below, not basement'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) whether or not 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;
 - (ii) the effect of the proposal on the openness of the Green Belt;
 - (iii) the effect of the proposal on the living conditions of occupiers of No 120 Hempstead Road with particular regard to outlook and privacy; and
 - (iv) 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 or not inappropriate development in the Green Belt

3. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than in a number of exceptions. One exception at Paragraph 149 c) is 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.
4. There is some conflict between Policy CS5 of the Dacorum Borough Council Core Strategy (2013) (CS) and the requirements of the Framework as Policy CS5 permits 'limited extensions to existing buildings' in the Green Belt.

However, the policy also confirms that national Green Belt policy will be applied to protect the openness and character of the Green Belt. In that regard, I attach more weight to the wording of the more recently published Framework.

5. What constitutes a disproportionate addition is not defined within the Framework. However, the Council suggests that the dwelling was originally a modest two-storey semi-detached dwelling and has already been significantly extended.
6. On my site visit, I saw for myself that following the implementation of a previously permitted two-storey side extension and hip-to gable loft conversion with rear dormer, the building is now a large semi-detached dwelling. The appellant has not disputed that the previous extensions have significantly increased the size of the dwelling over and above the size of the original building. No detailed evidence is before me, such as floorspace or volume calculations, to dispute the Council's position.
7. On a purely visual inspection of the plans, the ground floor dining room extension together with the lower level home cinema room extension would substantially increase the internal floor area and volume of the dwelling. Based on what I have seen and the evidence before me, I am more persuaded by the Council's evidence in this instance. More particularly, when the proposed extensions are considered cumulatively with the previous extensions, they would represent disproportionate additions over and above the size of the original building.
8. I conclude the development would be inappropriate in the Green Belt, having regard to the requirements of Policy CS5 of the Core Strategy (2013) and the Framework.

The effect on the openness of the Green Belt

9. Paragraph 137 of the Framework sets out the essential characteristics of Green Belts, which are their openness and permanence. It has been held in the High Court that openness is epitomised by the lack of buildings or development.
10. While the extensions would occupy a previously developed area occupied by hard surfaced patios, there would be a spatial impact by virtue of the height and volume of the extensions. Given their scale, position to the rear elevation of the host dwelling, and the intervening mature planting to the southern boundary of the site, the development would not be highly discernible from Hempstead Road. However, on my site visit I noted that there would be transient views of the development for train passengers travelling along the line which sits close by to the east of the site.
11. Taken together, the spatial and visual impacts of the extension would have a modest effect on the openness of the Green Belt. In this regard, the extension would not preserve the openness of the Green Belt, thereby conflicting with the aims of including land within the Green Belt when assessed against the Framework.

Living conditions of No 120 Hempstead Road

12. There is a single storey projection to the rear elevation of No 120 which has windows that sit in close proximity to the boundary with the appeal site. There are also areas of decking and an open sided canopy to the area immediately to

the rear of the single storey projection. As the levels descend further away from this neighbouring dwelling there is a hard surfaced patio area.

13. To the rear elevation of the appeal dwelling, there are steps down to a patio area. This patio area is flanked by a high brick wall to the boundary with No 120. The wall substantively screens views of the area to the immediate rear of No 120 in views from the patio on the appeal site. Beyond the patio, the boundary with the neighbouring garden steps away. There is also the potential for oblique views of some parts of the neighbouring garden from the upper floor windows serving the appeal dwelling. Overall, these factors ensure that the outdoor areas serving No 120 are not materially overlooked from within the appeal site.
14. The ground floor extension would partially sit next to the single storey rear projection at No 120 and close to the canopy within the neighbouring garden. The increased height of the extensions relative to the height of the existing boundary wall would not be significant. Consequently, they would not have a materially harmful effect on the quality of outlook for neighbouring occupiers when compared with the existing situation.
15. However, the ground floor extension would have a floor level corresponding with the internal floor level of the existing dwelling. As a result, anyone standing inside the extension would be in an elevated position relative to the existing patio levels. This means that the rear window would facilitate oblique elevated views resulting in a degree of overlooking towards the more peripheral parts of the neighbouring garden.
16. Moreover, the cross section on the proposed drawings indicates that occupiers of the dwelling would be able to utilise the roof of the lower level extension as a terrace. This would allow for close up direct views towards the boundary and into the private rear garden areas serving No 120.
17. The appellant suggests that a condition could be attached requiring screening to be provided to the side of the roof terrace in order to prevent overlooking impacts. However, such screening would form a continuation of built form from the ground floor extension, resulting in structures of a considerable depth extending along the boundary with No 120. As land levels on the neighbouring site fall away alongside the lower level extension, a screen on top of the lower extension would be likely to have an imposing appearance from the neighbouring garden. There are no details before me to demonstrate that such a screen would be of an acceptable design and would not be detrimental to the outlook of occupiers of No 120. Therefore, I am not in a position to address the harmful overlooking impact identified through a condition.
18. I conclude, the development would have a harmful effect on the living conditions of occupiers of No 120 Hempstead Road with particular regard to privacy. In this regard, the proposal conflicts with the requirements to avoid loss of privacy to surrounding properties in Saved Appendix 3 of the Dacorum Borough Local Plan (2004) and Policy CS12 (Quality of Site Design) of the CS. For the same reason, the proposal also conflicts with Paragraph 130 of the Framework which confirms that decisions should ensure a high standard of amenity for existing and future users.

Other Considerations

19. The appellant suggests that they would be willing to relinquish their permitted development rights under Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, I am not aware whether the appellant's permitted development rights remain intact following previous planning permissions on the site. Even if they do, a condition would only come into effect on implementation of the planning permission. This would not prevent the appellant from utilising permitted development rights before then.
20. The appellant also suggests that they would be willing to demolish existing buildings on the site. However, precise details have not been provided indicating which existing outbuildings would be demolished on the site. Therefore, a comparison with the extensions and the relative relationships with the openness of the Green Belt cannot be made.
21. The Council did not refuse the proposal on the basis of its design or its relationship with the character and appearance of the area. I find no reason to reach a different conclusion on these matters. However, they are a separate consideration to the effects of the proposal on the openness of the Green Belt and the living conditions of neighbouring occupiers and do not override my findings under the main issues.
22. For the reasons given, I only attach very limited weight to the above matters.

Conclusion

23. The development constitutes inappropriate development in the Green Belt to which I attach substantial weight. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances.
24. As part of the assessment, I have also found that the development would result in a modest effect on the openness of the Green Belt. The development would also have an unacceptable effect on the living conditions of occupiers of No 120 Hempstead Road. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome.
25. The other considerations put forward in favour of the proposal only carry very limited weight.
26. In conclusion and on balance, the substantial weight to be given to Green Belt harm, in addition to the other harm identified is not clearly outweighed by other considerations and therefore the very special circumstances needed to justify the proposed development do not exist.
27. For the reasons given the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR