



Appeal Decision

Site visit made on 2 November 2023

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2023

Appeal Ref: APP/J1915/D/22/3311097

46 Pepper Hill, Great Amwell, Ware, Hertfordshire, SG12 9RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Jacey Thompson against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/0711/VAR dated 8 April 2022, was refused by notice dated 22 August 2022.
 - The application sought planning permission for the erection of a new first floor with alterations to the ground floor of the existing dwelling house and a new detached garage with workshop/storage over without complying with a condition attached to planning permission 3/11/0306/FP dated 17 May 2011.
 - The condition in dispute is No 2 which states that:
The development hereby approved shall be carried out in accordance with the following approved plans: 1231, 1231/4, 1231/SK/4 and 1231/SK/5 received on the 23rd March 2011 and Plan 1, 1231/1, 1231/2 and 1231/3 received on the 24th February 2011.
 - The reason given for the condition is:
To ensure the development is carried out in accordance with the approved plans, drawings and specifications.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new first floor with alterations to the ground floor of the existing dwelling house and a new detached garage with workshop/storage over at 46 Pepper Hill, Great Amwell, Ware, Hertfordshire, SG12 9RZ, in accordance with application Ref 3/22/0711/VAR dated 8 April 2022, without compliance with condition number 2 previously imposed on planning permission 3/11/0306/FP dated 17 May 2011 and subject to the conditions set out in the attached schedule.

Procedural matter

2. The revised National Planning Policy Framework ('the Framework') was published on 5 September 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework¹. As a consequence, I did not consider there to be a need to reconsult the parties and have determined the appeal in light of the new Framework document, which is a material consideration that should be taken into account.

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

Main issues

3. The main issues are:

- whether varying condition No 2 to permit an amended scheme would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt;
- if the development is inappropriate, 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

Appeal site context and background issues

4. The appeal site falls within the Green Belt and previously contained a detached bungalow set well back from the Pepper Hill vehicular highway. Pepper Hill is a busy classified road (A1170), the western side being characterised by detached & semi-detached dwellings of varying age, scale and architectural design, and the eastern flank by open paddocks/fields.
5. At the time of my site inspection, a significant amount of construction work had taken place to create a new first floor above the bungalow, although this had yet to be completed. A detached garage had also been erected at the front of the site. As a consequence of these works, both parties hold the view that the previous planning permission² remains capable of being fully implemented.
6. The appellant proposes that condition No 2 be varied so that a full gable roof can be constructed above the new first floor, as opposed to the previously approved half-hipped roof. The appellant states that this is necessary to address a building regulations requirement for the bedrooms to be fitted with fire escape windows, necessitating a change in their height and position on the wall plate.

Whether varying condition No 2 to permit an amended scheme would be inappropriate development in the Green Belt

7. Policy GBR1 of the District Plan³ states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. Paragraph 149 of this document states that a local authority should regard the construction of new buildings as inappropriate in the Green Belt, aside from a number of exceptions which include 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.
8. The evidence before me reveals that the original bungalow had not been subject to any previous extensions. Although the Council and appellant have both arrived at different figures in respect of the scheme's resultant increase in cubic volume, it is important to note that Paragraph 149 does not refer to specific numerical figures. The Framework therefore retains flexibility in the case of extensions and does not set an upper numerical limit.

² Planning Permission 3/11/0306/FP dated 17 May 2011.

³ East Herts District Plan, October 2018, East Herts Council.

9. I recognise that the roof extension would represent a significant addition to the building, but when taken cumulatively with the modest size of the detached garage and the absence of any other previous extensions, it is my view that the overall development falls within the upper limits of what I would consider proportionate to the original bungalow. As a consequence, I find that the scheme would not be a disproportionate addition to the original building, which means that it does not constitute inappropriate development in the Green Belt.
10. In view of the above, I conclude that the proposal to vary condition No 2 to permit an amended scheme would comply with Policy GBR1 of the District Plan which seeks, amongst other things, to ensure that Green Belt planning applications are considered in line with the provisions of the Framework. For the same reason, I also find that it would accord with Paragraph 149 of the Framework.

Conditions

11. The Planning Practice Guidance makes it clear that decision notices for a grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged.
12. I have considered the conditions imposed on the original planning permission and those suggested by the Council. The Council's request for a materials condition is not necessary as this was not on the original planning permission and in any event, these details are specified on the approved plans. Condition No 2 has been updated with the new plan numbers and the remaining obscure glazing condition (No 3) remains as originally imposed.

Conclusion

13. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed and that condition 2 should be varied.

Robert Fallon

INSPECTOR

Schedule of 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 details:- The submitted location plan and drawing nos. 1231 (site plan); 1231/SK/4 (existing elevations); 1231/SK/5 (existing floor plans); 1231/3 (detached garage); 1231/4 (roof plans, but only insofar as it relates to the detached garage); 023.1 (existing plans & elevations, site & location plan); and 023.5 (proposed plans & elevations, site & location plan).
- 3) The first-floor north-facing bathroom window openings shall be fitted with obscured glass and fixed closed, other than a single top-hung fanlight to each window for ventilation purposes, and shall be permanently retained in that condition unless otherwise agreed in writing with the Local Planning Authority.

End of Schedule