



Appeal Decision

Site visit made on 16 November 2023

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

an Inspector appointed by the Secretary of State

Decision date: 22 November 2023

Appeal Ref: APP/B1930/D/23/3322483

23 Osprey Drive, St Albans, Hertfordshire, AL4 0LT

- 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 Joe Hilley against the decision of St Albans City & District Council.
 - The application Ref 5/22/2955 dated 14 December 2022, was refused by notice dated 24 February 2023.
 - The development proposed is described on the appeal form as a "Part single, part two storey rear extension (resubmission following approval of 5/2021/3166 dated 07/01/22)".
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Decision

1. The appeal is allowed and planning permission is granted for a part single, part two storey rear extension (resubmission following approval of 5/2021/3166 dated 07/01/22) at 23 Osprey Drive, St Albans, Hertfordshire, AL4 0LT, in accordance with application Ref 5/22/2955 dated 14 December 2022, subject to the conditions set out in the attached schedule.

Procedural matter

2. The description on the application form does not accurately describe the proposed development. I have therefore considered the scheme on the basis of the description shown on the decision notice & appeal form and am satisfied that dealing with the appeal on this basis has not prejudiced the interests of any party.
3. 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.

Main issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt;

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

- 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

5. The appeal site consists of a double-fronted 2-storey detached dwellinghouse on a new residential estate within the Green Belt.
6. Table 2 of the Council's Green Belt Supplementary Planning Guidance² ('the SPG') sets out two size ranges for side and rear extensions in the Green Belt; - (1) an increase in cubic content by 90-180m³; and (2) a 20-40% increase in floorspace. The Council states that the scheme would exceed both limits, whereas the appellant states that it falls within the cubic volume threshold and only narrowly exceeds the % increase in floorspace.
7. Whichever figures are used, I am satisfied that the extension would result in a significantly larger dwelling in the Green Belt and therefore conflict with Policies 1 and 13 of the Local Plan³. I also find that it does not accord with Table 2 of the Council's SPG, but would not consider this determinative in itself as this document confirms that these size ranges are guidelines and not rigid limits.
8. However, Policies 1 & 13 of the Local Plan and the SPG significantly predate the Framework and are not consistent with it in that; (1) Policy 1 does not list extensions to dwellings as a form of development that may be acceptable within the Green Belt; and (2) Policy 13 and the SPG have a different wording, interpretation and meaning from that within the Framework. As a consequence, I have given the scheme's conflict with these policies and guidance very limited weight in my assessment.
9. Paragraph 149 of the Framework does not refer to specific numerical figures in setting an upper limit or size range;- it merely states that new buildings in the Green Belt should be regarded as inappropriate development, unless they fall within a number of exceptions, which include, amongst others, an extension to a building that does not result in a disproportionate addition over and above the size of the original building. The Framework therefore retains flexibility in the case of extensions to dwellings and does not set a ceiling to this.
10. Although the extension would represent a significant addition to the building, it would nonetheless step down from the main roof ridgeline and have a subordinate character. When taken cumulatively with 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 dwellinghouse. 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.
11. The proposal would therefore accord with Paragraph 149 of the Framework, and in so doing, I find that this would outweigh the very limited weight I have given to its conflict with Policies 1 and 13 the Local Plan and the SPG.

² Residential Extensions and Replacement Dwellings in the Green Belt, May 2004, Supplementary Planning Guidance, St Albans City and District.

³ St Albans District Plan, City and District of St Albans District Local Plan Review, Adopted 30 November 1994, Written Statement.

Other matters

12. Although representations have been made in respect of overlooking of the neighbouring property at No 26 Falcon Way, I am satisfied that the scheme would not result in any harmful loss of privacy as none of its windows are directly orientated towards this dwellinghouse or its garden.
13. Representations have also been made that the first floor part of the scheme would block the sunlight and/or cause overshadowing to neighbouring properties at No 26 Falcon Way and No 21 Osprey Drive. However, whilst there would be overshadowing and a direct loss of sunlight to No 21 early in the morning when the sun rises, this would be only for a very limited part of the day as the rear elevation of this property is north facing. This impact would not therefore be significant enough to materially harm the living conditions of its occupants or warrant dismissal. Similarly, whilst there would be overshadowing and a direct loss of sunlight at the end of the day to No 26, my assessment would be the same as for No 21. In reaching these conclusions, I have also been mindful of the evidence before me which reveals that the scheme passes the relevant Building Research Establishment (BRE) diffuse daylight tests (25 and 45 degrees) in respect of both these dwellings.
14. Further representations have been made that the scheme would harm the outlook from No 21 Osprey Drive and create an oppressive environment. However, given the separation distance involved and the intervening detached garage, I am satisfied that no harm would arise in this regard.
15. Despite the Council having referred to Policies 69 and 72 of the Local Plan in its reason for refusal, these do not relate to Green Belt matters and hence I am satisfied that the scheme is not in conflict with these.

Conditions

16. A condition has been imposed to ensure the scheme is carried out in accordance with the approved plans. I have also attached a condition regarding the materials to ensure that the appearance of the development is satisfactory.

Conclusion

17. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

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:- Drawing nos. PL110 (Location Plan); PL111

(Existing Site Plan); PL112 (Proposed Site Plan); and PL113 (Existing & Proposed Floor Plans & Elevations).

- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

End of Schedule