



Appeal Decision

Site visit made on 22 January 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/M1595/D/23/3330140

Lyndfield, Orsett Road, Horndon On The Hill, Thurrock RM16 3BH

- 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 & Mrs Trevor Thornton against the decision of Thurrock Borough Council.
 - The application Ref 23/00149/HHA, dated 7 February 2023, was refused by notice dated 17 July 2023.
 - The development proposed is a first floor side extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development within the application form referred to the proposal being a resubmission of an earlier scheme. The resubmission of a proposal is not an act of development and so I have not included this within the description above.
3. In December 2023 the Government published a revised National Planning Policy Framework (the Framework) accompanied by a written ministerial statement. The revised Framework is a material consideration which should be taken into account from the day of publication. Whilst the revisions have resulted in changes to paragraph numbers, the substance of the Framework in terms of the Green Belt has not. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of development plan policy and the Framework;
 - the effect of the proposal on the openness of the Green Belt; and
 - if it is inappropriate, whether the harm to the Green Belt by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development

5. The Framework explains that the fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.
6. The appeal site comprises a detached two-storey dwelling, within a large plot. The proposal is for a first floor side extension and is very similar, if not identical, to an earlier proposal, which was dismissed at appeal¹ as being harmful to the Green Belt.
7. Paragraph 154 of the Framework regards the construction of new buildings as inappropriate in the Green Belt. An exception to this 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. The Framework defines "original building" as being a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
8. Policy PMD6 of the Core Strategy and Policies for Management of Development Focussed Review (2015) (CS) states that in respect of residential extensions disproportionate means no larger than two reasonably sized rooms or any equivalent amount. The policy is generally, but not wholly, consistent with the Framework. In accordance with Paragraph 225 of the Framework, the policy carries some weight, whilst the Framework should be given full weight as a material consideration.
9. Planning permission was granted under references 73/00564/FUL, for a kitchen addition, and 97/00081/FUL for a single-storey side extension to provide additional bedroom and extension to living room. The subsequent construction of these additions extended the original building. The appellant has presented evidence, which indicates that the lean-to extension permitted under application reference 73/00564/FUL may have been a replacement of a previous structure.
10. There is no compelling evidence demonstrating that there was a lean-to on 1 July 1948 and I am not satisfied that this element was part of the original building. Even if I were to accept that the kitchen addition was a replacement for an earlier structure that was part of the original building, the scale and massing of the single storey side extension (LPA Ref. 97/00081/FUL) is substantial. The scale and massing of the appeal proposal would, therefore, make it a disproportionate addition to the original building when considered with this previous addition.
11. For these reasons, I find that the proposal would result in a disproportionate addition over and above the size of the original building. Therefore, the proposal would be inappropriate development which is, by definition, harmful to the Green Belt. Consequently, the proposal would conflict with Policy PMD6 of the CS, which seeks to protect the Green Belt from harm, and with the Framework, in this regard.

¹ APP/M1595/D/18/3218486

Openness

12. The Framework identifies the essential characteristics of Green Belts as being their openness and their permanence. The site is enclosed by tall trees to the boundaries, restricting the visual effect of the proposal on the surrounding area. Nevertheless, whilst the footprint is unaltered the scale and massing of the proposed development means there would be a harmful reduction in the spatial openness of the Green Belt.
13. For these reasons, the proposal would harm the openness of the Green Belt. The development would therefore conflict with Policy PMD6 of the CS and the Framework.

Other considerations

14. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm resulting from the appeal development, is clearly outweighed by other considerations.
15. I have already identified the proposal would be inappropriate development and would harm the spatial openness of the Green Belt. Consequently, I do not accept the appellant's assertion of an absence of demonstrable harm and so this consideration carries neutral weight.
16. My attention is drawn to development at a neighbouring property where permission was granted by the Council for a two-storey extension to the dwelling. The extent of the original building at that site is unclear, but it is apparent from the Council's report that it was much larger than the original building at the site. The proposal at the neighbouring site involved the removal of some elements in lieu of the extensions and, given the larger size of the building, larger extensions could have been acceptable. As such, I am satisfied the appeal proposal is materially different to the development at the neighbouring property. Each proposal should be considered on its individual merits and with appropriate regard to the development plan and any material considerations, which is what I have done in this case. Consequently, this consideration carries neutral weight.
17. The evidence presented does not conclusively demonstrate that the lean-to element was present on 1 July 1948. The details provided do not indicate that the scale and massing of the approved extension was commensurate with the structure that it replaced. On the evidence before me, I cannot be certain of the extent of the original building. Even if I were to accept that the lean-to element was part of the original building, the other extension is a significant addition. Therefore, as I have identified in my reasons above, the proposal would be a disproportionate addition to the original building and therefore this matter carries neutral weight.
18. The appellant has submitted plans showing how the dwelling could be extended under permitted development rights. The plans include a two-storey rear extension and extensions to the roof and were confirmed to be permitted development under separate Lawful Development Certificates (LDCs).

19. A Unilateral Undertaking (UU) has been submitted that seeks to prevent the implementation of these 'fallback' schemes and any other extensions or alterations pursuant to permitted development rights under Class A and Class C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), were the appeal to be allowed. The prevention of the fallback schemes and the removal of permitted development rights would reduce the scope for harm to the Green Belt.
20. There is no certainty the fallback schemes or the permitted development rights would be implemented by the appellant. They would produce a different form of development to the appeal proposal. Furthermore, the LDCs date from 2018 and despite the outcome of the previous appeal have not been constructed. I do not, therefore, consider it likely that the LDCs / permitted development rights would be implemented by the appellant.
21. However, the UU is unsigned, undated and is missing specific details including documents showing evidence of title and a plan identifying the site. Irrespective of the comments of the appellant regarding commencement of the UU, the version before me is incomplete and flawed and so would not prevent the fallback schemes or permitted development rights from being implemented. Consequently, it carries no weight in favour of the proposal.
22. The Council consider that the proposal would have an appropriate design and given the characteristics of the site, would not harm the overall character and appearance of the area, access and the living conditions of occupants of neighbouring properties. I find no reason to take a different view. Nonetheless, the absence of harm is a neutral factor and therefore do not weigh in favour of the proposal.
23. The site has previously formed part of a smallholding. Whilst the site is not currently used as such, there is potential for such a use to be revived in the future and for a family to occupy the property. However, there is no substantive evidence before me that the property in its current form would not be suitable for a family and that the wider site could not be used as a smallholding. Therefore, I give this only limited weight.
24. For these reasons I find that the other considerations in this case, as set out above, do not clearly outweigh the totality of the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the appeal development do not exist. The appeal development therefore conflicts with Policy DM6 of the CS and with Paragraph 154 c) of the Framework.

Conclusion

25. The proposal would not accord with the development plan as a whole. The other considerations in this case do not indicate that the application for planning permission should be determined otherwise than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed

J Pearce

INSPECTOR