



Appeal Decision

Site visit made on 31 January 2024

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

an Inspector appointed by the Secretary of State

Decision date: 13th March 2024

Appeal Ref: APP/J1915/D/23/3323561

1 Desborough Drive, Tewin Wood, Tewin, Welwyn, Hertfordshire, AL6 0HQ

- 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 M & L Campbell against the decision of East Hertfordshire District Council.
 - The application Ref 3/23/0149/HH dated 26 January 2023, was refused by notice dated 24 March 2023.
 - The development proposed is described on the application form as "Single storey rear extension".
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Decision

1. The appeal is dismissed.

Procedural matters

2. The revised National Planning Policy Framework ('the Framework') was published on 19 December 2023. Having reviewed this document, I am satisfied that the policy applicable to the scheme before me remains unchanged from the previous Framework documents published in 2021¹ and 2023². 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

3. The main issues are:
 - the effect of the development on trees protected by a Tree Preservation Order;
 - 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;
 - 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.

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

² National Planning Policy Framework, Department for Levelling Up, Housing & Communities, 5 September 2023.

Reasons

Appeal site context

4. The appeal site falls within the Green Belt and contains an attractive detached bungalow set well back from the vehicular highway on a large plot. The area is characterised by detached dwellings of varying age, scale and architectural design set on spacious plots. The appeal site and wider area contains a number of mature trees protected by a Woodland Tree Preservation Order³ ('TPO'), which give the locale a clear verdant character.

The effect of the development on trees protected by a Tree Preservation Order

5. There are a number of mature and attractive trees in close proximity to the eastern side of the proposed extension that are protected by a TPO. Although the scheme does not propose their removal, it was not accompanied by an arboricultural report that demonstrates the development would not damage their root systems or place undue pressure on them to be cut back in such a manner that would harm their health or visual appearance.
6. The appellant states that the Council's Landscape Officer did not object to the scheme, but that does not alter my view that the development would be harmful for the reasons I have given. I also recognise that the appellant would be agreeable to a suitably worded condition for tree protection, but I would not consider this to be appropriate as it has not been demonstrated that its intended purpose would be capable of being fulfilled.
7. In view of the above, I conclude that it has not been demonstrated that the development would not harm TPO protected trees. The scheme would therefore conflict with Policy DES3 of the District Plan⁴, which seeks, amongst other things, to ensure that development proposals demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value.
8. I also find that the scheme conflicts with Paragraph 136 of the Framework, which seeks, amongst other things, the retention of existing trees wherever possible.

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

9. Policy GBR1 of the District Plan states that planning applications within the Green Belt will be considered in line with the provisions of the Framework. Paragraph 154 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.
10. Although the development would represent a significant addition to the original building⁵, it would nonetheless step down from the main roof ridgeline and have a subordinate character. When taken cumulatively with the modest size of the extension and removal of the existing conservatory, it is my view that the

³ Tree Preservation Order 14 (1995) Tewin Wood

⁴ East Herts District Plan, October 2018, East Herts Council.

⁵ The Council states that it would be 83.3% beyond that of the original dwelling.

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. In view of the above, I conclude that the proposal 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 154 of the Framework.

Other matters

12. The appellant states that following the scheme's refusal, the Council gave prior approval consent for a single storey rear extension in the same position as the appeal scheme, albeit of a slightly different design. Whilst this represents a clear fallback position, there is no evidence before me that the impact upon the relevant TPO trees was considered during this application and/or whether any mitigation or protective measures were proposed. As a consequence, I have concluded that this fallback position does not justify the harm that would be caused to the TPO protected trees at risk in the scheme before me.

Conclusion

13. Although I have concluded that there is no harm in respect of the main issue relating to the Green Belt, I am nonetheless satisfied that the harm identified in respect of the main issue relating to trees is sufficient to still justify dismissal of the appeal. As a consequence, I conclude that the proposal conflicts with the development plan when taken as a whole and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.
14. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme should be dismissed.

Robert Fallon

INSPECTOR