



Appeal Decision

Site visit made on 13 February 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2024

Appeal Ref: APP/N5090/W/23/3326908

Corner of Holcombe Hill and The Ridgeway, Holcombe Hill, Mill Hill, London NW7 4ES

- 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 Mr N Saffrin against the decision of the Council of the London Borough of Barnet.
 - The application Ref 23/0087/S73, dated 21 December 2022, was refused by notice dated 10 March 2023.
 - The application sought planning permission for demolition of existing building and erection of a two storey detached dwelling with associated parking without complying with a conditions attached to planning permission Ref 22/0394/FUL, dated 26 July 2022.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: 16-182-02 - Site Levels (received 10.05.21), 16-182-04 - Building as Existing (received 10.05.21), 16-180-02 Rev E - Proposed New Detached Dwelling (uploaded 23.07.22), Schedule of Materials by Whymark Moulton (uploaded 23.07.22), Site and Location Plans 21/080-01D (Rev D - Drain and Services Excavations), TPP-01 Rev: A - TREE CONSTRAINTS PLAN TREE PROTECTION PLAN (uploaded 23.07.22), AC.2021.125 - BS5837 Arboricultural Report, Arboricultural Impact Assessment and Method Statement by Arbor Cultural Ltd (received 10.05.21), PLANNING & SUSTAINABILITY STATEMENT by Whymark Moulton (received 10.05.21), Demolition, Construction Management and Logistics Plan (Revised 31st March 2022), Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey by Arbtech (received 20.10.21), Bat Emergence and Re-entry Surveys by Arbtech (received 20.10.21), Construction Ecological Management Plan and Woodland Management Plan: Issue No 1 (dated 14/02/2021).
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There has recently been a revised National Planning Policy Framework (the Framework) published by Government. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework,

and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Background and Main Issues

3. Planning permission was granted in January 2022 for demolition of existing building and erection of a two storey detached dwelling with associated parking. According to the planning application form for the development that is the subject of this appeal, this dwelling was started in October 2022 and at the time of my site visit was complete.
4. Condition 1 was imposed on the original permission specifying that the development shall be carried out in accordance with approved plans. This appeal seeks to vary that condition to specify alternative plan numbers, for an amended design to include a first floor rear extension and a first floor side extension.
5. The main issues are whether the disputed condition is reasonable and necessary with regard to:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies.
 - the effect on the openness of the Green Belt.
 - the effect of the proposal on the character and appearance of the area and whether the proposal would preserve or enhance the character or appearance of the Mill Hill Conservation Area, and
 - 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 the proposal would be inappropriate development

6. The appeal site lies within the designated Metropolitan Green Belt at the corner of Holcombe Hill and The Ridgeway. The proposal is to amend the design of the building to include two first floor extensions to the approved dwelling.
7. Paragraph 142 of the Framework outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 154 and 155, set out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions.
8. Policy DM15 of the Barnet Local Plan Development Management Policies (2012) (LP) states that replacement buildings will not be permitted where they have an adverse impact on the openness of the area or the purposes of including land in the Green Belt. Paragraph 154 d) of the Framework allows the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
9. The Framework does not define what materially larger would be. An assessment of whether the proposal would be materially larger is therefore a matter of planning judgement but the overall size of the building (either in terms of footprint, floorspace or volume) is clearly an important factor.

10. In this case there is disagreement about the starting point for the appeal with the appellants stating that it is the replacement dwelling and the Council referring to the demolished fire station/ scout hut building. This appeal is for an amendment to the previously approved scheme for a dwelling and it therefore follows that the building against which the proposal should be assessed is the fire station/ scout hut. Because the development before me is for the construction of a replacement building, that is why the relevant exception test in Green Belt terms is the one at para 154(d) of the Framework and not para 154(c) which relates to extensions or alterations to existing buildings.
11. The new house would as a matter of fact, not be in the same use as the former fire station and scout hut buildings. Consequently, the proposal would be inappropriate development. I am of course aware that planning permission was granted for a replacement dwelling and that has been built. I shall return to consider the consequences of this under 'Other Considerations' below. In terms of size, the proposal would not increase the footprint of the replacement building, but due to the proposed extensions, the scale and massing would be increased. The side elevation of the building is close to the boundary of the site and to Holcombe Hill, which is a footpath linking The Ridgeway and Lawrence Street, from where there are other dwellings and the increase in bulk at the first floor would be highly visible, notwithstanding the high fence boundary treatment.
12. Taking the above factors into account, the proposal would be materially larger than the building it replaces and would not therefore fall within exception set out in paragraph 154d) of the Framework. It therefore follows that it would be inappropriate development in the Green Belt. It would also be contrary to Policy DM15 of the LP which has similar aims.

Effect on openness

13. One of the five purposes of a Green Belt, outlined at paragraph 143 of the Framework, is that it should assist in safeguarding the countryside from encroachment.
14. The proposal would increase the mass and bulk of the building at first floor level. Consequently, albeit to a limited degree, the proposal would, in both visual and spatial terms, harm the openness of the Green Belt.
15. I therefore conclude that the development would lead to a loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment, contrary to the Framework.

Mill Hill Conservation Area

16. The appeal site is located within the Mill Hill Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The CA Character Appraisal Statement (2008) shows that its character is derived in part from the pattern of development and various architectural designs and sizes of buildings.
17. Whilst the change to the fenestration of the rear of the building to include French doors has previously been granted permission (23/0532/S73), the side and rear extensions would increase the scale and massing of the first floor

close to the boundary of the site adding to the prominence of the building in the street scene, particularly when viewed from Holcombe Hill. Although the building is within a large and spacious plot, it is already larger than the original building that was on the site and the proposed extension would increase the views of it from the public domain. I accept that the surrounding dwellings are of a variety of designs and styles, as illustrated in the appellants statement of case, and therefore there is no uniformity of buildings in the area. However, the increase to the bulk of the building would be incongruous to the character of the area.

18. I conclude that the proposed extensions would not preserve or enhance the character or appearance of the CA. Consequently, the development would not meet the statutory tests set out in the Act. It would conflict with Policies CS1 and CS5 of the Barnet Core Strategy (2012) and Policies DM01 and DM06 of the LP which together amongst other matters seek to ensure that development has regard to its local context and preserve or enhance local character. It would also conflict with the guidance in the Residential Design Guidance Supplementary Planning Document (2016) and in the Framework.
19. Given that the proposal relates to only one part of the CA, the harm arising from the proposal, in terms of the approach in the Framework, would be less than substantial. In these circumstances the Framework advises at paragraph 202 that this harm should be weighed against the public benefits of the proposal.
20. Whilst I accept that the proposal would provide additional living accommodation, I am unconvinced that this equates to a public benefit, sufficient to outweigh the harm that I have identified, given that this harm carries great weight. Accordingly, the proposal conflicts with the aims of the Framework in terms of conserving and enhancing the historic environment.

Other considerations

21. I acknowledge the background of the extant planning permission for the house that has been constructed. However, as explained above, although the appeal scheme is seeking to amend the approved design by varying the 'plans' condition, the development actually before me is the construction of the dwellinghouse that was to replace the former site buildings. Therefore, whilst I appreciate the comparisons between the 'as built' and what the appellant now wants to do, the correct starting point for consideration of the scheme is back to how the site was before the new house was constructed. Furthermore, given that I have found the new scheme would harm the Green Belt and it would not preserve the character or appearance of the CA, it is a fallback position that has only limited weight.
22. The appellant's written statement of case suggests that the proposal is not inappropriate development in the Green Belt and as such no other considerations have explicitly been advanced to take account of in the overall balance. That said, I acknowledge the need for additional family accommodation and the spacious setting of the host property, but I give these limited weight.

Green Belt balance

23. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Therefore, substantial weight should be given to the harm to the Green Belt. The Framework states that 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
24. For the reasons set out above, the development constitutes inappropriate development in the Green Belt. Furthermore, there would be limited harm to the openness of the Green Belt in addition to the harm to the CA. Paragraph 153 of the Framework states that substantial weight should be given to any harm to the Green Belt.
25. For the reasons given above, the other considerations in this case do not clearly outweigh the harm to the Green Belt and to the CA.
26. Therefore, I conclude that the very special circumstances needed to justify the development in the Green Belt have not been demonstrated. As such the proposal would conflict with the Framework and Policy DM15 of the LP which together seek to protect the Green Belt.

Conclusion

27. The proposed development conflicts with the development plan as a whole and there are no other considerations that outweigh this conflict. I therefore conclude that the appeal should be dismissed.

H Senior

INSPECTOR