



Appeal Decision

Site visit made on 16 July 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/N5090/W/23/333361

Edgehill Manor, Highwood Hill, Marsh Lane to Totteridge Common, Barnet, London NW7 4HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sameer Khatri against the decision of the Council of the London Borough of Barnet.
 - The application Ref is 23/1602/FUL.
 - The development proposed is partial demolition of Edgehill Manor (retention of front facade) garage and outbuilding. Construction of a new dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) has been published since the Council issued its decision. A Written Ministerial Statement 'Building the homes we need' and a further consultation draft on the Framework have also recently been published. In relation to this appeal, I am satisfied that in this instance, none of these matters fundamentally affect the substance of the main issues in this appeal.
3. In May 2022 an Inspector considered an appeal proposal¹ on this site for a replacement dwelling. The Inspector examined many similar issues to the appeal before me including the effect on the Green Belt and on the significance of heritage assets. Therefore, based on the evidence before me and my observations, given the similarities, I have drawn from those findings where appropriate.
4. As a decision-maker, I must consider this appeal in light of the statutory duty placed upon me under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Paragraph 195 of the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

¹ APP/N5090/W/21/3282579

Main Issues

5. The main issues are:

- Whether or not the proposal would be inappropriate development in the Green Belt, having regard to the Framework and any relevant development plan policies;
- The effect of the proposal on the openness and purposes of the Green Belt;
- Whether or not the proposal would preserve or enhance the character or appearance of the Mill Hill Conservation Area, and the effect on the significance of a locally listed building; and
- Whether or not 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 or not inappropriate development

6. The Government's policy for new development in the Green Belt is set out in the Framework. The aim of that policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. It states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm.
7. Whilst the Framework sets out that the construction of new buildings should be regarded as inappropriate development in the Green Belt, Paragraph 154 lists a number of exceptions. Both parties consider that the proposal should be assessed against exception d) *the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces*.
8. Policy G2 of The London Plan (2021), and Policies CS1 and CS7 of Barnet's Local Plan Core Strategy (2021) (CS) all seek to protect the Green Belt. Policy DM15 of Barnet's Local Plan Development Management Policies (DMP) sets out the Council's approach to development in the Green Belt and is consistent with the requirements of the Framework; accordingly, I give it full weight in the overall planning balance.
9. The Framework does not set out a definition for 'materially larger', and neither party has drawn my attention to any quantitative definition. The Council has referred me to its Residential Design Guidance (2016) (RDG) which, whilst not appearing to provide guidance on replacement dwellings, advises on extensions in the Green Belt under exception c) of Paragraph 154². This states that, as a guiding principle, a disproportionate addition would be regarded as an increase of over 25% by volume of the original dwelling. Whilst I recognise that I am not considering an extension, and the matter must be determined on its individual merits, this guidance is of some use as background and as a starting point in considering what might be regarded as a 'materially larger' building.

² Paragraph 154 exception c) *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.*

Furthermore, as this assessment is primarily a reference to size, a volume measurement is particularly helpful as it captures a 3-D comparison.

10. The previous Inspector also considered the earlier proposal against exception d), and given the similarities with the appeal before me, his findings remain relevant. In this regard, in calculating the size of the existing dwelling, the Inspector took account of the volume and footprint of existing buildings which could sensibly be considered together. This included the main dwelling and the existing garage and gym. There is nothing to suggest that these circumstances have changed, and I see no reason for taking a different approach in my assessment. The Inspector also considered whether to include in these calculations the volume and floor area of an approved outbuilding for use as ancillary accommodation³ which had not been constructed. His view, informed by the remoteness of this building from the main house and relevant case law, was that this proposed building should not be considered in the calculations.
11. The appellant has referred me to the Council's decision on a planning application at Hillsborough Cottage⁴ at the end of 2022. It is suggested that this approval indicates that the Council now considers that approved but not yet constructed outbuildings should now be taken account of in calculating the size of the existing dwelling. However, looking at the information provided relating to this decision, it appears that this approved outbuilding was much closer to the dwelling than the approved outbuilding that I am currently considering. Also, it appears that the proposed outbuilding at Hillsborough Cottage would replace other existing structures, which does not appear to be the case with the current appeal proposal. I am satisfied, therefore, that based on the evidence before me, the circumstances with the proposed outbuilding at Hillsborough Cottage are very different. Therefore, in this appeal, I will adopt the same approach as the previous Inspector and exclude the permitted outbuilding when calculating the size of the existing dwelling. In the same way I will consider the proposed outbuilding as a fallback position.
12. For the avoidance of doubt, even had I considered that the approved proposed outbuilding could be included in this calculation, there is insufficient detail as to how the implementation of this outbuilding could be prevented if I had included it. An appropriate mechanism would be to secure this through a Unilateral Undertaking. I have not been directed to any such legal agreement and even if an appropriately worded condition was found to be acceptable, no suitable wording has been suggested.
13. Therefore, considering the combined figures for the existing dwelling together with the garage and gym, the appellant indicates that the above ground volume change arising from the appeal proposal would be 30% greater than the existing volume, and the floor area would be increased by 15%. The Council does not dispute the accuracy of these figures.
14. The proposed additional volume would be evident mainly due to the increased two-storey depth across most of the full width of the building. It would also have a significantly increased bulk to the roof. Therefore, notwithstanding the stated increase in size, the consolidated form of the building with its increased scale and massing to the sides and rear would also make it appear materially larger.

³ Ref.20/3867/192

⁴ Ref.22/3959/FUL

15. The increase in volume and floor area would be less than that considered under the previous appeal. However, the scheme would still result in a building that would have an increased visual appearance and bulk and would look considerably larger than the combined size of the three existing buildings. This along with the percentage increase in volume would, notwithstanding the reduction compared with the previous appeal scheme, result in a proposed increase that would still amount to a 'materially larger' replacement building. The proposal would not, therefore, comply with exception d) of Paragraph 154. Furthermore, neither party has provided any adequate indication that it would comply with any of the other exceptions in Paragraph 154. Accordingly, the proposal would constitute inappropriate development in the Green Belt.

Openness of the Green Belt and purposes

16. Despite the reduction in the size of the proposal from the previous submission, it would still significantly increase the size and bulk of the existing building. This would reduce the spatial component of openness. Visually, the loss of openness would be seen in views from the access point and potentially from the adjacent footpath when the boundary vegetation is not in leaf or if it was reduced in its height or thickness. Whilst much of the additional bulk of the building would be apparent from the sides and rear with limited public views, the property is set within an extensive garden area and the openness of the Green Belt is very evident within it. The proposed additions would be conspicuous within this garden area, and its increased form would draw the eye. It would therefore also have a visual impact on the openness of the Green Belt although this effect would be lessened by the limited public views.
17. The previous Inspector considered that the removal of the garage and gym would reduce the bulk and spread of built form across the site and that this would have a beneficial effect on openness. However, he considered that this benefit was moderated by the lower position of these outbuildings meaning that they are not readily viewed in conjunction with the main dwelling and that the gym is not visible in public views. In relation to the proposed outbuilding, mentioned above, the Inspector concluded that this building, if implemented would have a spatial impact on openness but only a limited visual impact due to its distance from the house and the screening effect of planting within the garden. Taking account of the similar circumstances before me I have no reason to take a different view regarding the effect on openness on the Green Belt arising from these outbuildings.
18. Therefore, whilst I have found that the proposed dwelling would reduce the spatial component of openness and have some visual impact, considering the effect on the openness arising from the demolition of the existing outbuildings and not implementing the approved outbuilding, overall, the proposal would have a neutral impact on the openness of the Green Belt.
19. With regard to the purposes of the Green Belt, the Council considers that there would be conflict with purpose a) *to check unrestricted sprawl of large built-up areas* and purpose c) *to assist in safeguarding the countryside from encroachment*. The Council, in its decision notice, also refers to intrusion into the rural character of the Green Belt. However, the proposal would remain wholly within the established residential garden and occupy a similar siting to the existing dwelling. It could not be regarded as contributing to the spread of a built-up area or represent a noticeable encroachment into the countryside. It

would, therefore, have a negligible effect on the purposes of including land within the Green Belt and on rural character.

20. Given the above, I consider that the proposal would have a neutral impact on openness, and the effect on the purposes of including land within the Green Belt would also be negligible. However, the proposal would be inappropriate development and the Framework states that this is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It also states that any harm to the Green Belt should be attributed substantial weight.

Heritage significance

21. The Mill Hill Conservation Area (CA) is focussed along a long linear route known as The Ridgeway and is characterised by institutional buildings and groupings of smaller cottages together with larger houses set in substantial grounds. The settlement is in a countryside setting with a distinct rural feel. The Council's Character Appraisal Statement (2008) defines character areas with the appeal building lying within the Nan Clarks Lane/Highwood Hill area. Within this area the buildings of Highwood Hill are described as modest weatherboard and brick cottages fronting the highway with a notable collection of larger villas and mansion houses providing a striking contrast. It also mentions the boundaries of fine trees, informal planting and hedges associated with larger properties.
22. Based on my observations and the submitted details, I consider that the significance of the CA is mainly drawn from the character and range of traditional buildings that it contains, together with the use of materials, the pattern of development and the relationship of buildings to the surrounding landscape. Edgehill Manor, being a notable and large Edwardian property in mature grounds, is clearly representative of the character area described above. Despite mature planting along the roadside, it can be viewed at the site entrance. Furthermore, should the roadside planting be thinned in future, the building's presence would be much more apparent in the streetscape. The building therefore makes a positive contribution to the character and appearance of the area.
23. Edgehill Manor was added to the Council's Local List in 1986. The Local Listing description mentions that the building is an Edwardian residence, built in the Palladian style, which is faced in stucco render with brick quoins, has four pitched gabled eaves with baroque roundel windows and a marble columned entrance. It notes that the building has architectural interest and was selected for its intactness and aesthetic merits. Although Historic England did not add the building to the statutory list in 2021, its assessment against its listing criteria provides a useful summary of the building's special interest. This explains that the building dates from 1904 to the design of T E Collcutt and has some architectural merit. It notes that a considerable number of alterations and additions rather overwhelm the Edwardian design and composition detracting from its interest. It also mentions later uses which are likely to have resulted in internal changes and reproduction features. It comments that whilst several of the architect's buildings are listed building, Edgehill Manor is not one of his best surviving works. The appellant also considers that the significance of the building has been diminished, especially since its addition to the local list, due to these changes as well as the harm caused by the subdivision of its grounds to build a house alongside.

24. I recognise that the central section of the front elevation is where Collcutt's design appears to be most legible. However, it appears to me that the historic core of the building can be recognised and appreciated elsewhere in its roof form and in both front and rear elevations. These elevations retain historic legibility in the arrangement of openings and some detailing, including dated hopper heads. These are all part of the building's historic legibility and significance and have a combined greater value than just the central section of the building's frontage.
25. I recognise that the later interventions and alterations range in their appropriateness and some appear clearly distinguishable from the original design. This includes the conspicuous additions to the front porch and the large loggia to the rear. I also saw some unsympathetic alteration to historic detailing. However, it is not clear to me why some of the additions are considered harmful to the building's significance. For example, the western wing appears to reflect many of the features and proportions of the central façade and was added not long after the building's construction. Furthermore, the appellant's Heritage Assessment (2023) mentions that the architect practiced eclecticism in using a combination of different styles and features, applying them in new and different ways, and did not always design with strict symmetry and proportion in mind. The assessment considers that the building was intended to give an impression of domestic informality. It follows, therefore, that some of the later changes to the building could be considered to reflect the spirit of the architect's eclectic design and its organic nature of change over time. Also, in my view, some of the changes, such as the western wing, which is prominent from the road, are a positive part of the building's evolution over time.
26. Even though the historic plot has been subdivided to construct a new dwelling alongside, Edgehill Manor still stands in a substantial and mature garden. This change has not, therefore, significantly undermined the contribution that its surroundings make to the significance of its setting or to its contribution to the character and appearance of the CA.
27. Despite the erosion of the building's significance to a degree described above, it retains an historic appearance and identity that can be readily seen and understood. Therefore, whilst I recognise that the building would not have met the strict selection criteria for buildings of this type and period for national listing, it nevertheless retains a degree of historic and architectural significance. Consequently, despite the changes to the building and its setting, it was retained on the Council's local list when it was reviewed. Whilst the Council has not clearly explained the process of this review, I nevertheless see no adequate reason why it would remove it.
28. The appeal proposal would retain the front, four bay façade to a depth of 4.5m, removing the later additions and alterations to it, and would replace the remainder of the building. This, the appellant suggests, would retain the main features attributed to the original architect and allow the historic building to stand forward with the new wings set back. It is suggested that the proposal would remove the unsympathetic elements of the existing building and be designed in the style of the original, be a higher, better-quality design and have improved environmental attributes. The appellant considers that the proposal would have a minor adverse impact when weighing in the balance the low evidential and aesthetic values of the historic fabric that would be lost and

the medium evidential and aesthetic values of the principal elevation that would benefit from elements of the proposal.

29. However, for the reasons explained above, even though the retention of part of the façade would preserve many of the features mentioned in the local listing, the overall significance of the building is derived from much more than the central section of the front façade. Even if the proposed building sought to emulate a period design, it would confuse the observer and would no longer be a building attributed to its original architect. Nor could it be regarded as a historic building. It would lack legibility and integrity and would remove parts of the building which contribute to its significance. Furthermore, I have been provided with little information to show what the building looked like before these additions and alterations. Therefore, it is not clear to me whether the retained frontage would be faithfully restored or whether the exposing of the returns to either side of the frontage, currently embedded in the building, would recreate its original appearance.
30. Although set back, the design of the proposed wings to the side of the retained frontage, with their large, predominantly uniform, and regimented fenestration would visually compete with the retained portion. This uniform design approach would be at odds with the eclectic style of the original architect and his aspirations for domestic informality. To the rear, the replacement building would appear very different in terms of its overall form, massing and detailing.
31. Despite some benefits that would be derived from the removal of unsympathetic additions to the historic front façade, overall, the proposal would confuse and erode the architectural and aesthetic merit and significance of a locally listed building. It would irreversibly harm a building which makes a positive contribution to the character and appearance of the area. Furthermore, aside from the harm resulting from the loss of significance, the resulting building would have no particular architectural design distinction and at best it would make a neutral contribution to the CA. Overall, the loss of a positive building and replacement with a neutral building would result in harm to the character and appearance of the CA.
32. Considering the above, I find that the proposal would fail to preserve the character and appearance of the CA. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of those assets and any such harm should have a clear and convincing justification.
33. I find the harm in the context of the significance of the designated heritage asset, in the language of the Framework, to be less than substantial in this instance. This commands considerable importance and weight and is not to be treated as a less than substantial objection to the proposal. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
34. I have also found that the proposal would harm the significance of a locally listed building. In this regard, paragraph 209 of the Framework requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application and that a balanced judgement will be required having regard to the scale of any harm or

loss and the significance of the heritage asset. In this regard, I have found that the building has intrinsic significance and that this is amplified due to its siting in the CA. The scale of harm or loss would be very evident due to the extent of demolition.

35. The appellant is of the opinion that the proposal would be beneficial because it would retain the essential features of the historic building, make the historic frontage more prominent and remove later harmful additions. It is also suggested that the proposal would remove prominent outbuildings, consolidate development on the site and improve views from the road. However, I have found that overall, the proposal would cause harm to the heritage significance of the building and enhancements to it and its setting could probably be achieved by other design solutions thereby avoiding the harm identified. These matters therefore carry limited weight as public benefits.
36. The appellant suggests that the building is in poor condition, requiring extensive renovation to improve the living conditions of its occupants. However, although I noted some dilapidation in the building fabric this has not been adequately quantified such that it would clearly justify the building's substantial replacement.
37. I have already mentioned the appellant's suggestion that the proposal would be a high-quality building in terms of design and materials and be of a much higher standard of sustainability and energy efficiency than the existing dwelling. However, a high standard of design would be expected of any new development. Limited information has been provided to quantify the environmental benefits, and energy efficiency measures could more than likely be introduced into the existing building without resorting to demolition which would have a high environmental impact. These, therefore, are neutral matters and do not attract any weight in favour of the proposal.
38. I have found that the proposal would have a neutral effect on the openness of the Green Belt. Regarding the fallback position of the approved, proposed outbuilding, both parties agree that this is an extant and implementable fallback. However, although relatively large, this outbuilding would not be clearly viewed in conjunction with the historic building, and I see no reason why its construction would cause any demonstrable harm to its setting. These matters therefore would not carry any weight as public benefits.
39. There would be benefits to the appellant's family of creating a modern, multi-generational home. However, this would be regarded as a private benefit. There would also be some economic benefits deriving from the development, but these would be limited to the duration of the work.
40. Taken in the round, I conclude that the identified public benefits would be of insufficient weight to outweigh the great weight to be given to the harm to the CA, a designated heritage asset. The proposal would therefore fail to preserve the contribution that the building makes to the character or appearance of the CA. As such, the proposal would fail to satisfy the requirements of the Act and paragraph 205 of the Framework. In addition, there is no clear and convincing justification for the harm to the significance of the heritage asset. Furthermore, I have found that the significance of a non-designated heritage asset would be materially harmed.

41. The proposal would not comply with Policies HC1 of the London Plan, CS Policies CS NPPF and CS5, and DMP Policies DM01 and DM06, and the Mill Hill Conservation Area Character Appraisal. Amongst other things, these policies and guidance seek to conserve the significance of heritage assets and preserve or enhance local character. DMP Policy DM06 sets out a presumption in favour of retaining locally listed buildings. Whilst this steps beyond the balanced judgement contained in the Framework, it does not affect my reasoning and conclusion on this matter.

Other considerations

42. The Framework is clear that substantial weight should be given to any harm to the Green Belt. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
43. I have already concluded that the proposal would harm the heritage significance of the building and the character and appearance of the CA, therefore the suggestion that it would retain essential historic features of the building and remove later harmful changes to it carries little weight in favour of the proposal. Nor has it convinced me that the harm is justified, especially considering that there may be alternative ways of preserving and enhancing the building. I have also considered the condition of the building together with the design, materials and suggested environmental credentials of the proposal. Again, I have concluded that these would attract little weight in favour. I have also considered the modest economic benefits arising from the development which attract little weight.
44. Likewise, I have found that the loss of a positive building and its replacement with a neutral building would result in overall harm to the character and appearance of the CA. The proposal therefore carries no weight in this regard.
45. I have considered the impact of the proposal on public views and the spread of the development across the site in my assessment of openness of the Green Belt. In this regard, I have concluded that, even taking into account the fallback position of the approved outbuilding, the proposal would have a neutral impact on the openness of the Green Belt. I have also concluded that the construction of the approved outbuilding would not cause any demonstrable harm to the setting of the existing dwelling. In this regard, it would not carry any weight in favour of the proposal.
46. I am mindful of the advice contained in the Planning Practice Guidance that in general planning is concerned with land use in the public interest. Therefore, whilst I acknowledge the personal circumstances of the appellant, and the wish to form a modern, multi-generational family home, it has not been demonstrated that these benefits could not be achieved by an alternative scheme which does not involve harm to the heritage assets. This is equally applicable to the harm to the Green Belt. This matter therefore can only attract limited weight to this consideration.

Whether or not 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.

47. In summary, the proposal would constitute inappropriate development in the Green Belt which should not be approved except in very special circumstances. I have found a neutral impact on openness and a negligible effect on the purposes of the Green Belt. Substantial weight should be given to any harm to the Green Belt. It would also fail to preserve or enhance the CA and harm a non-designated heritage asset, causing harm to their significance. The harm to the significance of the CA would not be sufficiently outweighed by the public benefits accruing from the proposal.
48. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposal would conflict with the provisions within the Framework which seek to protect the Green Belt and would not comply with Policy G2 of the London Plan, CS Policies CS1 and CS7 and DMP Policies DM15.
49. Having regard to my findings in respect of the harm to the heritage assets and the Green Belt I consider that the application of the Framework's policies in relation to those heritage assets and the Green Belt provide clear reasons for refusing the proposal. Consequently, the presumption in favour of sustainable development contained in the Framework would not be engaged and therefore would not weigh in support of the proposal. I have also found that the proposal would conflict with the above stated policies in the development plan relating to heritage assets. It would therefore conflict with the development plan when read as a whole.

Conclusion

50. Whilst there would be benefits associated with the proposal, I consider that there are no material considerations, including the provisions of the Framework, of such weight to lead me to the conclusion that the proposal should be determined other than in accordance with the development plan. Therefore, for the reasons given, I conclude that that the Appeal should be dismissed.

G Bayliss

INSPECTOR