



Appeal Decision

Site visit made on 13 November 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2024

Appeal Ref: APP/C1950/D/24/3343212

Flint Cottage , Blackhorse Lane, South Mimms, Hertfordshire EN6 3NB

- 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 N Johnson against the decision of Welwyn Hatfield Council.
 - The application Ref is 6/2022/2775/HOUSE.
 - The development proposed is alterations to dormers and crown roof over rear extension.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The appeal site (the site) includes a detached dwelling (the dwelling) surrounded by woodland. The site has an extensive planning history, of which the following is most pertinent:
3. In 1994 permission was granted for what had been two semi-detached cottages to become one house (thereafter, the dwelling), and for it to be extended. Some permitted development rights, including those allowing further extensions, were removed so as to control development which may have a detrimental effect on a nearby Site of Special Scientific Interest (SSSI). Further extensions to the dwelling were permitted in 2004. Both the 1994 and 2004 permissions were implemented.
4. Thereafter, unauthorised development took place. A retrospective application was refused in 2011, and an enforcement notice (the notice) requiring the demolition of both an outbuilding and of extensions and enlargements of the dwelling was upheld at appeal in 2014¹ (the EN appeal). Soon after, a planning application was submitted for alterations to the dwelling, including the retention of some of the development addressed by the notice. In 2018 this was refused and a subsequent appeal² (the PA appeal) dismissed.
5. The development addressed by the notice remains in place. The proposal includes the retention of some of it in a reduced form. As such, and notwithstanding the description of development in the application form, the appeal proposal amounts to extensions and enlargements of the dwelling beyond those permitted in 1994 and 2004. I have determined the appeal on that basis.

¹ APP/C1950/C/13/2206775

² APP/C1950/D/18/3196930

6. From the EN appeal onwards, a survey drawing from 1977 showing the semi-detached cottages has been taken to show the original building³. I see no reason to take a different approach.
7. I have taken the site address from the application form as the address on the appeal form is inaccurate.

Main Issues

8. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt, 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 inappropriate development

9. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to exceptions set out in paragraph 154. One such exception 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 does not define 'disproportionate additions'.
10. Policy SADM34 of the Welwyn Hatfield Borough Council Local Plan 2016-36, adopted 12 October 2023 (the Local Plan) addresses development within the Green Belt, and closely follows the requirements of the Framework in prohibiting disproportionate additions over and above the size of an original building. It also specifies this be considered in terms of bulk, scale, height or massing, and requires that account be taken of consistency with the general pattern of development, character of the area, and prominence in the landscape. These elements of Policy SADM34 are additional, rather than contrary, to the requirements of the Framework and, as such, I do not find the former inconsistent with the latter.
11. Figures contained in the evidence and not disputed by either party show the increase in size of the dwelling, as it exists today, over and above the original in terms of footprint, floor area, roof volume, roof height and ridge length. The footprint has increased from some 95m² to 187m², the floor area from 162m² to 390m², the roof volume from 95m³ to 242m³, the roof height from 3.1m to 3.8. The ridge length is 11m at present and, though the original length is not stated, it was 6m as of the 1994 and 2004 permissions.

³ Defined as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

12. The EN appeal found that the above increases were inappropriate development in the Green Belt. The proposal is for the same development as exists, less the pitched roofs on the six roof dormers, which would become flat-roofed, and the top part of the ground floor rear extension roof, which would be lowered.
13. I do not have any figures that capture the size of the appeal proposal over and above the original building in quantitative terms. Nevertheless, and even if the original ridge length was 6m, the sum of the additions would result in a footprint increase of some 10m², a floor area increase of some 138%, a roof volume increase of slightly less than 150%, a roof height increase of some 700mm, and a ridge length increase of some 5m. In quantitative terms the extensions to the original building are substantial. Visually, the additions to the building have altered it significantly from the original humble cottages. In both respects, the sum of the additions is disproportionate over and above the size of the original building.
14. For these reasons, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with Policy SADM34 of the Local Plan, and with the Framework.

Openness

15. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The appeal proposal comprises built development where it did not previously exist and, as such has a spatial effect on openness. The appeal site is in a secluded location where it is not visually prominent to the wider public. Nevertheless, the extent of the appeal proposal is partially evident on the approach to the site, and fully so from the grounds of the site itself. The bulk, scale, height, and massing of the appeal proposal are at odds with undeveloped, verdant character of the surrounding area and landscape.
16. Given the above, the proposal would result in a harmful loss of openness, albeit one which would be slightly tempered by the secluded location of the site.

Other considerations

17. There is no dispute as to the protection afforded to bats, that since the PA appeal in 2018 bats have been found to roost at the appeal dwelling, or that work affecting bat roosts requires a licence from Natural England.
18. The requirements of the notice and whether the presence of bat roosts at the appeal dwelling justifies non-compliance with them are not matters before me. Nevertheless, the appellant contends that a benefit of the appeal proposal is that it would allow the partial retention of development in which the roosts exist rather than their removal and that, furthermore, as compliance with the notice requires work for which a licence would not be granted, the appeal proposal represents the solution to an impasse.
19. A survey and report from Jones & Sons Environmental Services Ltd dated 28 Sept 2020 addresses the basis on which a licence may be granted and advises that retention of the dwelling in its existing form is preferable. Against this, the County Senior Ecology Officer advises that alternative solutions to the appeal proposal which maintained or enhanced the roosts could readily be found, and RammSanderson Ecology Ltd, a consultancy employed to provide

expert opinion, state that an alternative scheme of mitigation to the appeal proposal can be designed and implemented.

20. Given the above, it is not evident that an application for a license is bound to be refused. Furthermore, I have no evidence that a license was refused. As a result, and even if implementation of the appeal proposal would retain all existing bat roosts, it is not evident that the appeal proposal is the only way in which bats could be protected. I attach minimal weight to that benefit, therefore.
21. Whilst the Inspector in the EN appeal expressed her hope that discussions between the parties would follow, she also upheld the enforcement notice without modification and made it clear that whether to waive any of its requirements was a matter for the Council. That remains the case. Even if the 2014 application had the support of officers, it was refused by the Council and was, in any event, a different scheme to that before me, which I have assessed on its merits. As such, I attach minimal weight to the comments cited in the EN appeal and made in the process of the 2014 application.
22. The condition restricting permitted development rights was imposed to protect the SSSI, and no harm to it has been identified by the Council. Even so, the appeal proposals are subject to planning control and, as a result, must be assessed against all relevant policies. As such, I attach minimal weight to the reason for the condition.
23. I note the appellants concerns over the time taken by the Council, and their assertion that bats have roosted in the meantime. The performance of the Council is not a matter before me and, if the appellant has sufficient grounds, they may pursue a complaint independently to this appeal. In any event, it is not evident that the appellant was awaiting a decision from the Council in the period when the bats roosted. Overall, Council timescales carry minimal weight, therefore.
24. I have no reason to doubt that the appellant has undertaken improvements to the site and surrounding area, but that does not alter the planning merits of the appeal proposal. I also have no reason to doubt that the work undertaken to the dwelling has resulted in an energy efficient building, or that this would be true if the appeal proposal were implemented. These matters do not alter the planning merits of the appeal proposal and as such, carry minimal weight.
25. I note the personal circumstances of a family member of the appellant. I have very little evidence to confirm the nature and effect of these circumstances, or to show that the appeal proposal is the only way in which appropriate arrangements to assist that person could be provided. These matters attract minimal weight, therefore.

The Green Belt Balance and Conclusion

26. The proposal constitutes inappropriate development in the Green Belt and harms openness. The Framework requires that any harm to the Green Belt should be given substantial weight, and that inappropriate development should not be approved except in very special circumstances.
27. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations. For the reasons given, the cumulative weight of the other considerations in this case does not

clearly outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify this development do not exist. The development is contrary to Policy SADM34 of the Local Plan, and also with the Framework, both of which seek to protect the Green Belt.

28. The proposal does not comply with the development plan taken as a whole and no material considerations indicate a decision other than in accordance with it. I therefore dismiss the appeal.

A Knight

INSPECTOR