



Appeal Decision

Site visit made on 26 November 2024

by Thomas Courtney BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2025

Appeal Ref: APP/J1915/W/24/3336653

33 Gypsy Lane, Great Amwell, Hertfordshire SG12 9RL

- 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 Mrs K Smith against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1500/FUL.
 - The development is a proposed replacement bungalow.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the determination of the application an updated and revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The relevant Green Belt policies in the revised Framework are similar to those in the previous Framework and, as such, I consider there would be no prejudice to any party by considering the development against the relevant policies in the Framework.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the living conditions of the neighbouring occupiers with particular regard to noise; and
 - if the development would be inappropriate, whether the harm to the Green Belt by way 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 it.

Reasons

Whether inappropriate development

4. The appeal site lies within the Green Belt. Paragraph 154 of the Framework states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Under exception (d), the replacement of a

building would not be inappropriate development, provided the new building is in the same use and not materially larger than the one it replaces. Policy GBR1 of the East Herts District Plan 2018 is consistent with the Framework insofar as it states that proposals will be assessed in line with the provisions of the Framework.

5. The appellant opines that the proposed replacement dwelling would not be materially larger than the one it replaces. However, the footprint of the replacement building would be larger. It would have a greater floorspace, depth, width and height compared to the one it would replace. The volume of development would increase significantly from 515 square meters (sqm) to 1144 sqm. The scale of the development, in particular the length of the western projection and amount of roofscape, would be considerable. Given this, the replacement building would be materially larger than the one it replaces.
6. On this basis, the proposal would represent inappropriate development in the Green Belt and would not accord with the exemption outlined at Paragraph 154(d) of the Framework. It would also conflict with Policy GBR1 of the East Herts District Plan 2018 insofar as it seeks to ensure that the Green Belt is preserved from inappropriate development.

Openness

7. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has been identified as being formed of both spatial and visual aspects. The enlarged footprint of the dwelling when compared to the existing would extend the amount of built form within the side garden. The dwelling would also feature a main hipped roof with rear and front roof gables. Furthermore, the western wing of the dwelling would feature a long, pitched roof. Although the dwelling would be single storey, the amount of roofscape proposed would add considerable bulk. Therefore, the volume of development proposed would materially impact on openness in a spatial aspect resulting in limited harm to the Green Belt.
8. In visual terms, the proposed dwelling would be visible to surrounding occupiers and would be readily apparent to road users and pedestrians travelling on Gypsy Lane. The proposed building, although single storey, would visually erode the openness of the site.
9. For these reasons, the proposed development would result in an adverse impact on both the spatial and visual openness of the Green Belt resulting in limited harm to the Green Belt.

Living Conditions

10. The Council's Environmental Health Officer objected to the Air Source Heat Pump (ASHP) models put forward by the appellant, including the alternative model referred to at appeal stage. The Council considered that the proposed model of ASHP would fail their noise criteria but that a condition could be imposed to ensure the ASHP would be compliant with noise rating levels.
11. I am satisfied that a condition requiring the submission of a noise impact assessment demonstrating that the ASHP would have a noise rating level that would not exceed 26dBA at the facade of the nearest or most affected

neighbouring habitable room at 31 Gypsy Lane, would sufficiently protect the living environment of the neighbouring occupants.

12. Given this, the proposal would not harm the living conditions of the neighbouring occupiers with regards to noise. It would therefore not conflict with Policies DES4 and EQ2 of the East Herts District Plan 2018 insofar as they seek to ensure development proposals avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties, and that particular consideration is given to the proximity of noise sensitive uses.

Other Considerations

13. The Framework highlights that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, with substantial weight 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.
14. The appellant states that the proposed dwelling would occupy a smaller area of the site compared to what was previously proposed as part of applications ref 3/22/1269/FUL and 3/22/2485/FUL. They also state that Policy VILL2 of the East Herts District Plan 2018 and Paragraph 154 (e) of the Framework both permit limited infill development. However, the proposal is a replacement building and would not constitute limited infill development. The previous schemes are therefore not entirely comparable to the proposal and given they were both refused, they can only lend very limited weight in favour of the appeal.
15. My attention was drawn to the neighbouring dwelling at No 35 Gypsy Lane. Whilst similar to the proposal in terms of scale and appearance, I have limited information regarding its grant of permission. I note it was permitted in 2014, prior to the current adopted East Herts District Plan 2018 and the Framework. Therefore, the relevance of this dwelling is limited. The siting, scale and design of the dwelling at No 35 Gypsy Lane does not justify the harm to openness that I have identified.
16. The appellant highlights that the proposed dwelling would be well designed and finished with sympathetic materials. The overall architectural form and appearance of the proposal would be satisfactory, however, the scale of the proposed dwelling would harm openness and would not satisfy the requirements of exception (d) of Paragraph 154 of the Framework. Limited weight is attached to this consideration.
17. A lack of objections or issues relating to highways, landscaping and other matters are neutral factors that do not lend any significant weight in favour of the appeal.

Planning Balance and Conclusion

18. The proposal would cause harm to the Green Belt by way of inappropriateness, as well as limited harm to openness, and substantial weight must be given cumulatively to this harm. The other considerations advanced in this case do not clearly outweigh the substantial harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

19. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
20. For the reasons given above the appeal should be dismissed.

Thomas Courtney

INSPECTOR