
Appeal Decision

Site visit made on 21 January 2025

by **G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 4th February 2025

Appeal Ref: APP/J1915/D/24/3341664

36 Pye Corner, Gilston, Hertfordshire CM20 2RB

- 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 Greg Redman against the decision of East Hertfordshire District Council.
 - The application Ref is 3/24/0001/HH.
 - The development proposed is the erection of two storey side and single storey rear extensions.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above I have used the description of development given in the appellant's appeal form as this more correctly identifies the development for which permission is sought. I have omitted the word 'retrospective' as this is not a description of development.
3. Planning permission was granted in 2017 for a two storey side and single storey rear extension¹ (the approved scheme). However, it appears from the work carried out that it has not been fully implemented in accordance with that approval. This appeal seeks planning permission to retain what has been built. After submitting this appeal, the appellant has advised that a Certificate of Lawful Development has been issued for the demolition of the rear corner of the existing single storey extension and the construction of a detached garage/workshop². This application is referred to in the appellant's appeal statement and the Council has considered the likely impact of Householder Permitted Development Rights (PD Rights) in their delegated Officer Report. I am therefore content that no parties would be unfairly disadvantaged by my taking account of this change of circumstances.
4. Whilst on site, I noted some minor changes to the rear of the building which did not appear on the submitted plans for which approval is sought. These included the position of some rear windows and internally the utility room appeared to be in use as a bedroom. The appellant has sought to submit revised plans to update this situation. Whilst I recognise that the changes to the windows at the rear of the building are of no consequence to the main issues in this appeal, I will make my decision based on the plans submitted to and considered by the Council, and the details shown on those plans.

¹ Planning Permission Ref.3/17/0687/HH

² Certificate of Lawful Development Ref.3/24/0602/CLPO

5. The main issues are:

- Whether the development 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 development on the openness of the Green Belt; and
- If the development is inappropriate development, 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.

Reasons

6. The appeal property is a semi-detached dwelling of two storeys with attic accommodation and is part of a mainly linear cluster of properties within Gilston. It is set back slightly from the highway with some parking to the frontage and a side access leads to a garden at the rear of the premises. Beyond this, to the rear, and with a steep drop down in land levels, is a commercial timber yard. This yard is mainly enclosed by a tree-lined bankside.
7. The approved scheme comprises a two storey side addition to the full height of the main building, incorporating front and rear gables, together with a rear single storey addition. The submitted plans for the appeal scheme appear essentially the same as the approved scheme but the rear single storey addition is larger, extending as far as the end gable of the property and adding a pitched roof to the other end. This latter part is now in use as a larger kitchen and utility room/bedroom.

Whether inappropriate development

8. The appeal site is located within the Metropolitan Green Belt where development is strictly controlled by Policy GBR1 of the East Herts District Plan (2018) (EHDP). This states that development proposals in the Green Belt will be judged according to the Framework.
9. The Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in Paragraph 154. Under Paragraph 154 c), the extension or alteration of a building is allowed provided that it does not result in disproportionate additions over and above the size of the original building. The Framework does not provide a definition of 'disproportionate additions' and this, therefore is a matter of planning judgement.
10. The term 'original building' is defined in the Glossary of the Framework as 'a building as it existed on 1 July 1948'. This therefore requires a comparison between the original building and the extended building. Both parties agree that the approved scheme would have increased the floor area of the dwelling by 69%. The Council notes that, at the time, this scheme was judged to represent a disproportionate addition over and above the size of the original dwelling and was regarded as inappropriate development. However, very special circumstances, to be discussed later, justified the grant of planning permission

11. The development which has been constructed is of a greater size than that approved, with the appellant indicating that the cumulative extensions now amount to an 81% increase in floorspace, a figure not disputed by the Council. It is very clear to me that looking at the cumulative size of the extensions, including their bulk and massing, that the appeal scheme constitutes a disproportionate addition over and above the size of the original dwelling and does not comply with Paragraph 154 c). For these reasons, the appeal scheme is inappropriate development in the Green Belt.

Openness

12. The Framework advises that openness is an essential characteristic of Green Belt policy. Openness has a spatial as well as visual dimension. The appeal property is clearly visible from the adjacent highway and the openness of the Green Belt is evident around it and the wider area.
13. In common with the Council's findings on the approved scheme, I find that the appeal scheme as a whole would result in a loss of openness both spatially and visually. In particular, the main side extension is very prominent in public views, making the loss of openness more apparent within the streetscape. Owing to its size and visual prominence the development causes significant harm to the openness of the Green Belt.

Other considerations and very special circumstances

14. Very special circumstances would need to exist to justify granting permission for the development because it would constitute inappropriate development in the Green Belt and harm the openness. Paragraph 153 of the Framework advises that substantial weight should be given to any harm to the Green Belt, including harm to its openness, and very special circumstances will not exist unless that harm, and any other harm, is clearly outweighed by other considerations.
15. The Council states that the approved scheme was permitted as its overall design and form were considered to balance with those of the adjoining property. These matters amounted to very special circumstances at the time. In the case before me, whilst I am still considering a similar overall proposal and those design considerations still apply, the matter of contention here is the increase in size of the rear single storey extension from that approved. I recognise that this part of the extension is a subservient addition which does not appear to be especially visible within the public domain. Nevertheless, it has added to the overall bulk and massing of the approved addition to the dwelling and has increased its impact on the openness of the Green Belt. Also, this smaller element does not appear to have any significant design relationship with the adjoining property so the very special circumstances which resulted in the approved scheme do not appear to be the case here. These factors are therefore afforded limited weight.
16. The appellant's appeal statement considers that the enhancement of the accommodation provided by the unauthorised extension are very special circumstances of moderate weight. However, there is little to suggest that the accommodation in the existing dwelling with its approved extension was inadequate, especially given the size of that extension and the room sizes and facilities provided. These matters are essentially a private benefit to the appellant which is afforded only limited weight.

17. The appellant indicates that they would utilise their PD Rights to construct outbuildings, extensions and boundary treatments which could result in a greater degree of harm to the openness of the Green Belt. In this regard, I have taken account of the recently approved Certificate of Lawful Development for a roughly rectangular, flat-roofed outbuilding which would sit between the dwelling with the approved extension, and the southern boundary. It would necessitate the unauthorised, single storey part of the extension being demolished. The outbuilding would have its own separate access to the garden and driveway, and would not be accessible from inside the dwelling. It would serve as a garage/workshop.
18. Whilst the approved outbuilding could be constructed, it would appear squeezed into the site and would seemingly prevent outside access to the rear garden without having to pass through a building. There is also little evidence to demonstrate that this fallback option would achieve the additional accommodation required through this appeal proposal, which indicates that there is a wish to increase the size of the kitchen. Also, this fallback option would result in the removal of a kitchen window and large sliding, glass doors to the lounge. Therefore, whilst the fallback option may have a greater overall impact on the openness of the Green Belt, given the appeal proposal's focus on improving the accommodation within the dwelling itself, there is, therefore, insufficient evidence before me to demonstrate that the proposed outbuilding indicated would be a realistic or possible fallback option. Whilst it is suggested that the appellant could extend to the rear of the original dwelling under PD Rights, there is little detail before me to suggest that such a theoretical extension could be constructed under these rights or that it would be constructed were the appeal dismissed.
19. The unauthorised elements of the extension may have limited public visibility and the erection of higher boundary treatments under PD Rights have assisted to some extent in screening the extension. However, these matters do not negate the fact that this is inappropriate development and spatially causes harm to openness. I have also taken account of the appellant's suggestion that they would be willing to have future PD Rights withdrawn by condition should the appeal be allowed. Based on all the details before me, the Certificate of Lawful Development and PD Rights are afforded moderate weight.
20. I have considered the two planning approvals provided in support of the appeal. With regard to the Spellbrook permission³ the details before me suggest that the proposed extension was for a relatively small addition on top of extensions which had already been permitted. The case before me relates to one large extension, of which part is unauthorised. Therefore, these circumstances do not appear comparable. In relation to the permission at St Leonards Road⁴, it appears to me that the very special circumstances here related to relinquishing a permission for a domestic extension and PD Rights which might allow a similar sized extension. In the case before me, the PD Rights highlighted mainly relate to an outbuilding and I therefore cannot be certain that they are comparable. The relevant issue is also one that is open to interpretation and depends on the specific circumstances of each case. Whilst consistency in decisions is important, each case must be considered on its own merits. Overall, the examples given, and the limited detail provided, indicate to me that what constitutes an acceptable extension in the

³Planning Permission Ref. 03/11/0512/FP

⁴ Planning Permission Ref. 03/15/0908/HH

Green Belt needs to be determined in the light of the specific circumstances and context of each case. Overall, I am not persuaded that they are directly comparable to the proposal before me.

21. This appeal relates to the appropriateness of a domestic extension in the Green Belt and the application of relevant planning policies. I am therefore uncertain of the relevance of a nearby, large allocation of land for housing. Also, whilst I note the appellant's comments regarding a Government consultation on 'Changes to various permitted development rights' (2024), this consultation is not a policy change. Also, the appeal before me relates to a large extension, of which a smaller part is under scrutiny, rather than an infill addition.
22. Taken as a whole, I have found that the development is inappropriate development and would result in substantial harm to the openness of the Green Belt. Whilst most of the extension has planning approval, I find that there is no adequate justification for the additional increase in its size. I have found that cumulatively, the very special circumstances set out by the appellant are afforded moderate weight overall. However, they do not clearly outweigh the significant harm to the Green Belt that I have identified, harm which the Framework directs should be afforded substantial weight. In concluding, therefore, the harm by reason of inappropriateness, and any other harm, would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal. The proposal would therefore conflict with EHDP Policy GBR1 and the Framework.

Conclusion

23. For the reasons set out above, and considering all other matters raised, the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal scheme would conflict with the development plan, when read as a whole, and the appeal should therefore be dismissed.

G Bayliss

INSPECTOR