



Appeal Decision

Site visit made on 28 September 2020

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/J1915/W/20/3254917

Lanbrook, St Marys Lane, Hertingfordbury, SG14 2LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Mullins against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0723/FUL, dated 7 April 2020, was refused by notice dated 1 June 2020.
 - The development proposed is construction of a 5-bedroom, two storey dwelling following demolition of the existing dwelling after fire.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. The appeal site is located within the Metropolitan Green Belt and is partially within the Hertingfordbury Conservation Area (CA), though the proposed dwelling itself would be sited just outside the CA boundary. The Old Rectory, a Grade II listed building (LB), is in close proximity to, and accessed via the same driveway as the appeal site.
3. The appeal site itself comprises an area of land that was occupied by a dwelling until it was destroyed by fire and subsequently demolished. The dwelling had an extensive garden area which remains, and this includes a formal garden and tennis court. The appeal scheme proposes the construction of a new dwelling in a similar position to the previous building.
4. The main issues are therefore:
 - Whether the proposal would be inappropriate development in the Green Belt, and its effect on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the setting of the CA and LB; 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

5. Policy GBR1 of the East Herts District Plan, 2018 (LP) states that proposals within the Green Belt will be considered in line with the National Planning Policy Framework (the Framework). Paragraph 145 of the Framework establishes that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless they fall within certain categories of development which may be regarded as not inappropriate, subject to certain conditions.
6. Part d) of this paragraph lists the replacement of a building as one such exception, provided that the new building is in the same use, and not materially larger than the one it replaces. I appreciate that both parties have considered the dwelling as a replacement for that which existed prior to the fire. However, for something to be considered as a replacement, the element that it replaces must exist at the time the replacement development is considered. There is no existing building on the site, and as such, the proposal does not fall to be considered under the exception at Paragraph 145(d) of the Framework.
7. There is no disagreement between the parties that the land was occupied by a permanent structure and I saw on my site visit that, although the dwelling has been demolished and hoardings erected, areas of hardstanding remain visible, and as such the remains have not blended into the landscape. In my view, the proposal therefore comprises the redevelopment of previously developed land and falls to be considered under Paragraph 145(g). This exception allows for the redevelopment of previously developed land providing it would not have a greater impact on the openness of the Green Belt than the existing development.
8. The proposed new building would however have a greater impact on the openness as no building currently exists on the site. In this respect the new building would, unavoidably, lead to a reduction in the openness of the Green Belt. The proposal would also not contribute to meeting any identified affordable housing need and therefore conflicts with paragraph 145(g) of the Framework.
9. The development would not satisfy any of the other exceptions in paragraphs 145 and 146 of the Framework and as such would amount to inappropriate development in the Green Belt which Paragraph 145 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework is clear that substantial weight should be given to any harm to the Green Belt.

Openness

10. A fundamental aim of Green Belt policy, as set out in Paragraph 133 of the Framework, is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Court judgments have confirmed that there can be both spatial and visual dimensions to openness within the Green Belt.
11. The proposed dwelling would be a two and a half-storey property, with a substantial crown roof, having one continuous ridgeline and substantial gable features to the front and rear elevations. It would be a substantial building and

its overall bulk and massing would, in spatial terms, have a harmful impact upon the openness of the Green Belt.

12. Openness also has a visual aspect as well as a spatial one. The appellant has indicated that due to the positioning of the site, at the end of a long private drive, and existing mature landscaping, the proposed dwelling would be well screened. Whilst the proposed dwelling would not be visible from St Mary's Lane, the site frontage is relatively open. The dwelling would occupy a prominent position. There would be open views of it on the approach from the driveway and the adjacent parkland, which existing landscaping would not screen.
13. The appellant has referred to a judgment¹ in relation to the consideration of openness, should a proposal be considered to be not inappropriate development under Paragraph 145 (d) of the Framework. As detailed above, I do not consider the appeal scheme falls to be considered against Para 145(d).
14. Due to its overall height and bulk, I consider that the proposed dwelling would be visually intrusive. I therefore conclude that the development would result in significant harm to Green Belt openness and I have attached substantial weight to this harm.

Character and appearance, with particular regard to the setting of the CA and LB

15. The proposed dwelling would have a relatively simple footprint and overall form. However due to its design, height and overall bulk it would be an imposing building, incorporating central gable projections to the front and rear and flat roof dormers to accommodate living space within the hipped roof.
16. The appeal site is partially within the CA, though the proposed dwelling itself would be sited just outside the CA boundary. The CA is centered on **Hertingfordbury Road which has a linear character and St Mary's Lane which rises to St Mary's church, which as identified in the CA Appraisal and Management Plan, 2016 (CAAP)**, is a large building that dominates the local scene.
17. The CA includes expansive areas of open land, some having parkland characteristics and this is a particularly special characteristic of the CA which, along with other aspects such as historic buildings and mature landscaping, show the evolution of the settlement and add to the rural quality of the CA. The Old Rectory is a Grade II listed building (LB) and, as its name would suggest, is a former rectory and is positioned within a landscaped park.
18. The appeal site **is accessed via a long private drive from St Mary's Lane**, directly adjacent to the church, and this is also the access to The Old Rectory. Metal estate fencing, which the CAAP identifies as a prominent and important feature in the parkland setting, runs in parallel to the driveway up to the appeal site, with open parkland beyond, and there are views to the rear of The Old Rectory and its manicured gardens to the other side of the driveway.
19. The appeal site occupies a prominent position at a point where the driveway splits, providing access towards the site and sweeping round to The Old Rectory. It is very much viewed as an integral part and key feature of this

¹ Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council and Valley Crown Nurseries Ltd (2016) EWCA Civ 404

important rural parkland setting and is reflective of the special interest of the CA, retaining a verdant and open character. It also forms an important part of the history and evolution of the CA and LB, having originally been the site of a garden cottage associated with The Old Rectory.

20. I saw on my site visit that The Old Rectory is a substantial building, though it is well screened by mature trees, and appears nestled into the landscape. There are however clear views of its rear elevation and garden from the driveway. These views provide an appreciation of its grandeur and status within this established parkland setting, which is an important part of its significance. Furthermore, the CAAP identifies this as being particularly important to the setting of the LB.
21. The proposed dwelling would be visible within the same views and, due to its proposed size and design it would be a dominant building which, even considering the separation between the buildings and existing landscaping, would compete visually with the LB. This in turn would have a harmful affect upon the appreciation of the significance of the LB and detract from its setting.
22. Whilst the proposal would incorporate some aspects of the local vernacular, such as proposed materials, its bold and ostentatious design, with substantial gable features, entrance portico with balcony above, flat roof dormers and overall bulky roof arrangement, would be at odds with the more modest building sizes and architectural styles characteristic of the CA.
23. For the same reasons it would harmfully intrude on the open and rural character of the parkland setting of which it would become an intrinsic part, and this would be wholly at odds with the established character of the CA, having a negative effect on its setting. Its visual impact would be significantly greater than that of the previous dwelling on the site, which retained a low level and horizontal emphasis and, although it extended further to the rear, presented a more restrained frontage to the driveway and adjacent parkland.
24. I have paid special attention to the desirability of preserving the listed building or its setting, and to the desirability of preserving or enhancing the character and appearance of the CA, including its setting, and the result of the proposal would be less than substantial harm when considered in the context of the Framework. Whilst the proposals would provide an additional dwelling, I do not consider this public benefit would be sufficient to outweigh the harm I have identified to the CA and LB, and to which I have attached considerable importance and weight.
25. Therefore, for the reasons stated above the development would conflict with LP Policies DES2, DES3, DES4, HA1 and HA4 which amongst other things seek to ensure that developments are of high-quality design, being of a scale, proportion, form, height, design and overall character that accords with, and compliments, the surrounding area, reflecting and promoting local distinctiveness and positively conserving and enhancing the appearance and character and setting of the CA and designated heritage assets.

Other considerations

26. The proposal includes built development where none currently exists, however, it is recognised that there was a building on the site which only ceased to exist due to a fire, and since that incident there has been a clear intention to erect a

new dwelling on the site. The appellant has lost their established residential use for reasons beyond their control and I consider this factor carries great weight.

27. There is some disagreement between the parties in relation to the exact measurements and dimensions of the demolished and proposed dwellings. There is, however, general agreement that the volume and footprint of the proposed dwelling would be less than that of the dwelling destroyed by fire and this attracts some weight.
28. However, the proposed height and floorspace would be greater and from the plans submitted, it is clear that although the previous dwelling was a two-storey building the first-floor accommodation was provided for within the roof space, and so the dwelling retained a low level and horizontal emphasis. Its size and design, with outriggers and single storey elements also reduced its overall bulk, and from the details before me, although it may have had a larger footprint, it did not appear as a substantial building.
29. Therefore, that the proposed dwelling would have a more simplistic footprint and form would not weigh in favour of the proposals as due to its design, height and overall bulk it would appear as a more substantial and dominant structure and this would be more harmful than the previous dwelling.
30. The appellant has stated that the proposed dwelling would be environmentally friendly, and this is a positive matter, though there is little to suggest this would provide any sustainable measures above and beyond that required by modern building standards and therefore attracts limited weight.
31. That the proposal would not adversely impact on the living conditions of existing nearby occupiers, retain existing landscaping and utilise appropriate materials would have a neutral effect, and therefore these matters do not weigh in favour of the appeal.

Planning Balance

32. I have found that the development would amount to inappropriate development in the Green Belt and that there would be significant harm caused to openness. Paragraphs 143 and 144 of the Framework make clear that inappropriate development is harmful to the Green Belt and this is therefore a matter to which I must attach substantial weight.
33. In addition, I have found that the development would also result in less than substantial harm to the setting of the CA and LB. This would not be outweighed by any public benefits and collectively this attracts considerable importance and carries substantial weight.
34. I conclude the benefits of providing a replacement dwelling following the destruction of the previous property by fire, and to which I have accorded great weight, does not clearly outweigh the harm I have identified. Consequently, there are not the very special circumstances necessary to justify inappropriate development in the Green Belt and the development conflicts with LP Policy GBR1 and the Framework.

Other Matters

35. I note the appellant's concerns that the Council refer to the proposed dwelling as a 'kit house', and that reference was made to details from a website which the appellant states did not form part of the planning application. The Officer Report does however state that the Council's consideration was on the basis of the submitted plans. Nevertheless, the details of the website or information contained therein have not been made available to me as part of this appeal, and so has not formed part of my assessment.

Conclusion

36. For the above reasons I conclude that the appeal should be dismissed.

A Denby

INSPECTOR