

## Appeal Decision

Site visit made on 7 April 2014

**by Peter Rose BA MRTPI DMS MCMl**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 June 2014

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**Appeal Ref: APP/C1950/A/14/2215107**

**8 The Warren, Carbone Hill, Northaw, Herts EN6 4PL**

- 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 Ian Cooper against the decision of Welwyn Hatfield Borough Council.
  - The application Ref S6/2013/2225/FP, dated 9 September 2013, was refused by notice dated 20 December 2013.
  - The development proposed is extensions and alterations to existing dwelling (as previous passed application No S6/0226/93/FP).
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I have taken into account the government's Planning Practice Guidance, issued on 6 March 2014, in reaching my decision.

### Main Issues

3. The main issues are:

(a) whether the proposed development would constitute inappropriate development in the Green Belt for the purposes of national planning policy and the development plan;

(b) the effect of the development upon the openness of the Green Belt;

(c) the effect of the development upon the welfare of bats as a protected species which may be present in the existing roof of the host property;

(d) 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 necessary to justify the scheme.

### Reasons

#### *Whether inappropriate development*

4. The appeal site comprises a large plot of land occupied by a substantial two storey dwelling and forms part of a Green Belt setting. The site has been variously developed over time and also includes a large detached garage/outbuilding. The dwelling is set well back from Carbone Hill behind an

extensive front garden. The front of the site is well screened by planting and only affords glimpsed views from the road. The rear of the site comprises a considerable garden also screened on all sides. The predominant character and appearance of the surrounding area is generally one of large, spacious dwellings of varied designs but set within large plots and substantially screened by landscaping.

5. The National Planning Policy Framework (the Framework) establishes that enlargement of a building within the Green Belt is inappropriate development unless it would not result in a disproportionate addition over and above the size of the original building. It defines the original building to be as existing on 1 July 1948 or, if constructed after that date, as it was built. Policy RA3 of the Welwyn Hatfield District Plan 2005 (the Local Plan) generally seeks to restrict extensions on a similar basis. Taking into account extensions and outbuildings, Policy RA3 seeks to ensure that such extensions as proposed would not result in a disproportionate increase in the size of the original dwelling. Whilst adopted in 2005 prior to the Framework, Policy RA3 appears to be broadly consistent with the national guidance.
6. Both the Council and the appellant have provided detailed evidence regarding their respective understanding of development at the site. The site history is complicated, and in some respects remains unclear, and different interpretations have been offered regarding the form of the original dwelling for the purposes of the Framework and Policy RA3.
7. Both main parties appear to agree that in the late 1930's two buildings existed on the site, and that one was a dwelling and the other possibly an outbuilding. The appellant suggests, however, that by 1960, there was one single large dwelling on the site formed from two previous dwellings occupying the land and a garage infill. The appellant maintains that it is the amalgamation of the previous buildings which forms the original dwelling. The appellant has provided evidence to suggest that the original floor area of the host building on this basis was 445.8 square metres and that it has since been extended by 33.2 square metres. The proposed scheme would add a further 63.62 square metres, resulting in a total increase in floor area of 21.64%.
8. In contrast, the Council doubts the existence of two dwellings and instead provides evidence which suggests the original main dwelling comprised one part of the existing dwelling, although how this precisely relates to the second, smaller building is unclear. The main dwelling appears to have had a footprint about half the size of the existing building and has since been variously extended and developed over time. The Council does not wish to dispute the appellant's figures of existing and proposed floor area but takes a different interpretation of the original form of the dwelling which it considers to be the southern element of the existing dwelling only.
9. Having carefully considered all the evidence before me, I conclude that the Council's detailed explanation of the site's planning history with reference to its planning register is the more probable. The Council has no evidence to suggest that two dwellings existed at the site and the history of planning decisions does seem to broadly accord with the Council's explanation of the original form of the dwelling and its subsequent development into its current configuration. Accordingly, I consider that the original size of the dwelling was substantially less than that set out in the appellant's calculations. Although I note the

Council's estimate of 162 square metres, I am unclear how that relates to the status of the second, smaller building existing at the site in the late 1930's. Nevertheless, whilst I cannot conclude from the details before me regarding the precise size of the original dwelling, I am satisfied that the proposed increase in floor area over and above the southern element of the existing dwelling would be substantially greater than 21.64%. Further, I consider the proposed scale of the development would be disproportionate relative to the likely size of the original dwelling. I am also unclear what allowance has been made within the appellant's calculations for the existing large garage/outbuilding.

10. On a mathematical calculation alone the extensions relative to the scale of the original building would be disproportionate. However, in addition to mathematical calculations, the visual impact of the extensions has to be considered. The proposal would infill land around the existing footprint and, although this may not be disproportionate in relation to the existing house, it would be disproportionate in the context of the more modest house that originally existed.
11. I therefore conclude, in line with both national policy and the local development plan, that the scheme would be inappropriate development in the Green Belt and that, in accordance with paragraph 88 of the Framework, substantial weight needs to be attached in my decision to the harm which would arise on that account.

#### *Openness of the Green Belt*

12. There is no definition of openness in the Framework but, in the context of the Green Belt, it is generally held to refer to freedom from development or the absence of development. Openness is identified by the Framework as an essential characteristic of the Green Belt. Although the scheme would essentially involve infilling around the existing footprint, the proposed extensions would still add significantly greater mass and form to the existing dwelling. I consider the additional bulk of the dwelling would thereby reduce the openness of the Green Belt in respect of the space which would be occupied by the extensions.
13. I therefore conclude that the scheme would result in a harmful reduction in the openness of the Green Belt contrary to Policies D1, D2 and RA3 of the Local Plan, contrary to the Council's Supplementary Design Guidance 2005, and contrary to the Framework. These seek, amongst other matters, to ensure that development is of a high quality and respects the context of the area. As required by the Framework, I attach substantial weight accordingly.

#### *Bats*

14. The appellant has submitted a field survey of the existing roof which has identified the presence of bats. The presence of a protected species is a material consideration and I have had regard to the Conservation of Habitats and Species Regulations 2010 (the Regulations), and to relevant advice set out in the Framework, and also provided by Natural England.
15. The survey has found the loft cavity to be an occasional summer (non-maternity) roost for bats and the existing roof to be a potential summer roost. The survey report suggests the extension would cause a temporary

disturbance to the loft cavity and roof. Whilst concluding the conservation significance of the cavity and roof to be low, it recommends a series of mitigation measures which the appellant would be prepared to undertake. The report also suggests a residual net benefit of additional space for bats.

16. My assessment is that insufficient information is before me to establish the extent to which bats may be affected by the scheme. Until details are available of the species, numbers and patterns of activity it would be difficult to soundly conclude regarding the effectiveness or otherwise of the proposed mitigation, should that be an appropriate way forward. In these circumstances, I cannot be satisfied that a prohibition under the Regulations would not be offended or that a licence under the Regulations, if required, would be likely to be granted.
17. I therefore conclude that, in the absence of further details, the proposed development would be harmful to the welfare of bats as a protected species present in the host property. Accordingly, the development would be contrary to Policies SD1 and R11 of the Local Plan. These seek, amongst other matters, to ensure that development meets the principles of sustainable development and contributes positively to the biodiversity of the site.

*Other considerations*

18. The Framework requires me to consider whether there may be other considerations which might clearly outweigh any harm arising from the development, and whether they might amount to very special circumstances necessary to justify development in the Green Belt.
19. Reference is made to a previous planning permission granted for extensions to the property in April 1992. That permission was not implemented and has now lapsed. I note, however, that the permission precedes both the Local Plan and the Framework and was a decision taken in a different policy context. In such circumstances, I afford it little weight and do not consider it represents a fallback position weighing in favour of the development.
20. I have noted the suggested residual net benefit for bats in terms of additional available space but this does not outweigh the findings I have made above.
21. I accept that, in the context of the scale and design of the existing dwelling, the proposed extensions would have little implication for the character and appearance of the host site. Nevertheless, the absence of harm is not in itself a positive factor in favour of the scheme which can be weighed against the other harm identified.
22. In summary, I find that other considerations do not clearly and demonstrably outweigh the harm identified in respect of inappropriateness, the reduction of the openness of the Green Belt, and the welfare of bats. No very special circumstances therefore exist to justify the appeal being allowed.

**Conclusion**

23. For the above reasons, and having regard to all other matters raised, I conclude the appeal should be dismissed.

*Peter Rose*

INSPECTOR