



Appeal Decision

Site visit made on 4 December 2012

by Lynne Evans BA MA MRTPI MRICS

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

Decision date: 12 December 2012

Appeal Ref: APP/C1950/D/12/2185928

Wildewood, Kentish Lane, Essendon, Hatfield AL9 6JG

- 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 B Bester against the decision of Welwyn Hatfield Borough Council.
 - The application Ref S6/2012/1258/MA was refused by notice dated 27 September 2012.
 - The development proposed is erection of swimming pool enclosure.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues raised in this appeal are:
 - a) whether the proposed enclosure would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
 - b) its effect on the openness of the Green Belt and on the character and appearance of the local area and any other harm,
 - c) other considerations; and
 - d) if it 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

Issue a) Whether inappropriate development

3. The appeal site relates to a large and imposing recently built dwelling, set in its own grounds within the countryside and the Metropolitan Green Belt. There is an existing open air swimming pool to the south west of the dwelling, between the house and Kentish Lane. The pool with its surrounding terrace is contained by retaining walls within the sloping garden land and an outbuilding containing a changing room is at the end furthest from the house. The proposal seeks to enclose the swimming pool and most of the surrounding terrace with a flat roofed enclosure in white render with stone clad detailing to be sympathetic to the appearance of the main house. This proposed scheme follows an earlier refusal (Council's ref. S6/2011/2227/MA) which was also dismissed at appeal

under Ref. APP/C1950/D/12/2172739, and as a result, this proposal has, amongst other changes, reduced the proposed size of the enclosure.

4. The National Planning Policy Framework (Framework) sets out the government's planning policies to secure sustainable development. One of its core planning principles at Paragraph 17, as amplified later in the Framework, includes *protecting the Green Belts*. Paragraph 87 confirms that *inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances*. Paragraph 89 sets out that the construction of new buildings is inappropriate except for a limited number of exceptions including the extension or alteration of a building providing that it does not result in disproportionate additions over and above the size of the original dwelling. In its decision notice the Council referred to the Framework and to Policy RA3 of the Welwyn Hatfield District Plan 2005 (Local Plan). The first criterion of the policy, relating to the extension of dwellings in the Green Belt, is generally consistent with the Framework.
5. The existing dwelling is a replacement of an earlier property, and since its permission in 1998 there have been a number of applications relating to further development at this site. There is however significant differences between the Council and the Appellant over the definition of the original dwelling; subsequent extensions and additions, and whether these extensions and additions result in disproportionate additions over and above the size of the original dwelling. Neither the Framework nor the Local Plan policy offer specific guidance to assist in this regard. The replacement dwelling has, in previous appeal decisions, been taken as the original dwelling and whilst the Council has reservations about this approach, it has accepted this definition.
6. Even with this definition there remain differences between the Council and the Appellant over the size of the original dwelling and what should be taken into account as subsequent extensions. The Appellant has argued that the only extension to the original property which would contribute to the cumulative total has been the orangery permitted on appeal under ref. APP/C1950/D/11/2152717. As a result, the Appellant contends that the proposed swimming pool enclosure together with that earlier extension would result in an addition of between 30 – 40% of the floorspace, depending on the size taken for the original dwelling.
7. In stark contrast the Council refers to considerably more changes and additions to the property which when taken with the proposed swimming pool enclosure would now make the additions over 100% increase of the original dwelling, when measured either by floor area or footprint. Some of these additions relate to outbuildings within the grounds of the house and the supporting text to Policy RA3, as well as the policy itself, is quite clear that such buildings, where planning permission is required, are to be included under the Policy. Contrary to the Appellant's assertions, I do not consider that either of the previous Inspectors, and particularly the Inspector determining the more recent appeal, reached a conclusive view that these other developments were not relevant, and it is also not entirely clear to me the extent of previous information made available at those appeals on which the decisions were based. As I have already indicated there is, in any event, no clear definition of 'disproportionate' set down in the Framework or the Local Plan policy, and it is for each decision to be determined on its merits having regard to the aims and objectives for the Green Belt.

8. I appreciate that the proposal before me has been reduced in size and scale from the previous proposal. However, it would still be of very substantial dimensions both in terms of its length and its width as well as in relation to the main house and higher than the side addition to the house serving as a breakfast room. It would therefore be a very sizeable increase in built development on the site, notwithstanding the large scale of the site. As a result of these concerns, it is my conclusion that the proposal would be a disproportionate addition to the original dwelling and so would be inappropriate development for the purposes of the Framework as well as Policy RA3 of the Local Plan.

Issue b) Openness and Character and Appearance

9. Inappropriate development is, by definition, harmful to the Green Belt, as set out within the Framework, and in accordance with that guidance, I therefore attach substantial weight to this harm. I have also considered whether there is any other harm.
10. The existing swimming pool is set down within the slope of the lawned gardens and enclosed by retaining walls. As a result, it has very limited impact on and does not materially intrude on the openness of the site surrounding the main house. By contrast, the proposed built enclosure given its scale and height would be a considerably more prominent structure and would as a result be more intrusive and detract from the openness of the site. This harm to openness would therefore add to the harm I have already concluded.
11. However, given the location of the proposal within the confines of the residential curtilage and its generally well wooded boundaries, I agree that there would be no additional harm to the rural character and appearance of the local area and no conflict with Policy RA3 of the Local Plan in this respect. No additional harm would be added in this regard.

Issue c) Other Considerations

12. I appreciate the Appellant's reasons for seeking the swimming pool enclosure to allow for the swimming pool to be used the whole year round. However, I can only give this matter very limited weight in favour of the proposal.

Issue d) Balancing of Considerations and whether very special circumstances exist.

13. I have already found that substantial weight must be given to the harm to the Green Belt by reason of the inappropriateness of the proposed development. The harm from loss of openness adds to the harm by reason of inappropriateness. The totality of the harm I have concluded is clearly not outweighed by the other considerations. I do not find that the very special circumstances required to justify the proposed development exist.

Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should fail.

L J Evans

INSPECTOR