



Appeal Decision

Site visit made on 26 April 2016

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 9 June 2016

Appeal Ref: APP/J1535/W/15/3139958
15 Bell Common, Epping, Essex CM16 4DY

- 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 R Hipkin against the decision of Epping Forest District Council.
 - The application Ref EPF/1399/15, dated 11 June 2015, was refused by notice dated 9 September 2015.
 - The development proposed is the conversion of existing annexe to separate dwelling, provision of car port, front canopy and rear decking.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of existing annexe to separate dwelling, provision of car port, front canopy and rear decking at 15 Bell Common, Epping Essex CM16 4DY in accordance with the terms of the application Ref: EPF/1339/15, dated 9 September 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 773 -EP01- B, 773-EP02C, 773-EP03A, 773-EE01B, 773-EE02A, 773-EE03B, 773-PP01G, 773-PP02C, 773-PP03B, 773-PE01C, 773-PE02D, 773-PE03B.
 - 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the canopy hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 4) The dwelling shall not be occupied until proposed site access and driveway have been provided and space has been laid out and made available for use for car parking within the site, in accordance with drawing Nos 773-PP02C and 773-PP03B. Those areas shall thereafter be retained and shall not be used for any purpose other than the parking and turning of vehicles.
 - 5) Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order), no enlargement or alteration of the building or provision of any ancillary building within the
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curtilage of the building, as permitted by Classes A, B, and E of Part 1 of Schedule 2 of that Order shall be carried out.

Main Issues

2. The main issues in the appeal are:

- Whether the proposal is inappropriate development in the Green Belt.
- Whether the proposed development would preserve or enhance the character or appearance of the Bell Common Conservation Area.

Reasons

Inappropriate Development

3. The appeal property comprises an existing single storey building located within the rear garden of No 15 Bell Common that was previously used as a residential annexe to the property. It is located within the Green Belt and the Bell Common Conservation Area. Paragraph 90 of the National Planning Policy Framework (the Framework) states that certain forms of development are not inappropriate within the Green Belt provided they preserve openness and do not conflict with the purposes of including land within the Green Belt. This includes the re-use of buildings provided that the buildings are of permanent and substantial construction.
4. In this case the building is already there and it was clear from my site inspection that it is both permanent and substantial in its construction. Consequently, the proposed use of the building as a separate three bedroom dwelling would not be inappropriate development in the Green Belt subject to consideration of the impact on openness and the purpose of including land within the Green Belt.
5. The proposal also includes the construction of a flat roof, open sided timber car port measuring approximately 5.4m in length and 3.5m in width that would be attached to the western side elevation of the building which would link to a small front canopy over the entrance door. In order to facilitate access to the car port an existing detached double garage would be removed and a new access created adjacent to the property boundary with No 19 Bell Common.
6. Paragraph 89 of the Framework indicates that the extension of a building within the Green Belt would not be inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. Whilst the proposed car port and canopy would be open sided and therefore would be considered as 'habitable space', taken together they would nonetheless result in an increase of about 20% over and above the original footprint of the building. However, in my view these additions may be considered to be modest in scope and not disproportionate to the size of the original building.
7. Given that the building is already there and that the proposed extensions to it are modest appropriate additions, there would be no encroachment into the countryside nor would the proposal conflict with any of the other purposes of including land within the Green Belt.
8. Whilst the existing garden of the host property would be subdivided to create a separate curtilage, given the existing domestic nature of the garden to No 15,

the fact that the existing garage would be removed and that the additions to the property would be modest, I do not consider that the proposed development would have any material impact on the openness of the Green Belt.

9. For the above reasons the proposal satisfies the relevant qualifying criteria of paragraphs 89 and 90 of the Framework. Consequently, I do not find any conflict with Policy GB2A of the Epping Forest District Local Plan Alterations (2006) (DLPA). As such, the proposal would not be inappropriate development within the Green Belt.

Character and appearance

10. The area in the vicinity of the appeal site is characterised by relatively large dwellings set within substantial rear gardens, several of which appear to have been subdivided to accommodate backland development within the gardens. The appellant has provided evidence of examples in the vicinity of the appeal site where such sub-division has occurred. In particular I observed at my site visit the developments to the rear of Nos 19 and 5 -11 Bell Common. The alignment of the appeal property and position of the proposed residential curtilage to the rear of the host dwelling appears broadly commensurate with the relationship that exists with these examples of other backland development in the locality.
11. I have taken into account the views of the Council that the existing backland developments should be considered as historic anomalies as they pre-dated the adoption of the Epping Forest District Local Plan (1998) (DLP) and the DPLA. Nevertheless, these developments are there and are part of the established character of the area. As such they set part of the visual context for the consideration of the appeal scheme.
12. I agree with the appellant that, as the building is already there, the existing garden at No 15 is already sub-divided to some extent. Moreover, given the examples of the sub-division of gardens to create backland development in the immediate vicinity of the site I do not consider that the establishment of a separate curtilage would be out of character with the existing pattern of development in this part of the conservation area.
13. The appeal site forms part of an existing residential garden. The proposal would retain its use as a residential garden albeit with potential boundary treatment with the host property. Nevertheless, taking into account my findings on the pattern of development above, I do not consider that the continued use as a garden would cause any material visual change or demonstrable harm to the character or appearance of this part of the conservation area.
14. The site already has substantial boundary fencing and hedging which provides considerable screening to the existing garden and annexe building. Even if a further curtilage boundary was created with the host property this would not be readily visible nor would be inconsistent with curtilage boundaries that already exist in those developments that have occurred to the rear of existing properties.
15. I accept that the development may result in additional garden furniture being placed in the garden. However, I also agree with the appellant that as the

building could already be lawfully used as family accommodation in connection with the host property then such use could already result in more intensive use of the garden and the placement of garden furniture. Consequently I do not consider that the appeal proposal would result in any material increase in the use of garden furniture to the extent that the character or appearance of the conservation area would be unacceptably harmed.

16. For the reasons set out above, I consider that the proposed additions to the property would be modest and proportionate to the existing building. I have taken into account the varied design of properties in the locality and the extract from the conservation appraisal provided by the appellant which refers to the general low rise of the buildings and the range of traditional building materials. The existing building has timber weatherboard walls and the proposed timber additions would be in keeping with the constructional style of the building. Consequently, I conclude on this issue that the proposal would have a neutral effect, which would not materially harm this part of the conservation area.
17. Taking the above factors into account, the proposed development would preserve the character and appearance of the Conservation Area as a whole in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would accord with paragraphs 131 and 132 of the Framework. As a result there would be no conflict with Saved Policies HC6 and HC7 of the DLP or Policy CP2 of the DPLA. These policies, amongst other things, require new development to protect the quality of the rural and built environment and not be detrimental to the character or appearance of conservation areas.

Other matters

18. I have taken into account the concerns regarding the height of the proposed decking and its proximity to the property boundary with No 21 Bell Common. Given its relatively narrow width it is unlikely that this area of decking would be used as a sitting out area.
19. Moreover, the Council indicate that the existing boundary fence must be maintained at a height of 2.44m as it is subject to a planning condition pursuant to the recent planning permission granted for the rear decking to the property (EPF/0691/13). Consequently, I agree with the Council that the fence would still extend approximately 1.8m above the height of the decking and as such would not cause any significant harm to the living conditions of the occupants of the adjacent property with particular regard to privacy and overlooking.
20. I have also taken into account the concerns regarding the potential disturbance associated with vehicular manoeuvring. However, in my view the proposal would provide adequate manoeuvrability space and the opportunity for parking outside of the proposed carport. Consequently I have attached limited weight to this matter.

Conditions

21. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the

government's Planning Practice Guidance. As a result, I have amended some of them for clarity and eliminated one for the reasons set out below.

22. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is for the avoidance of doubt and in the interests of proper planning. In order to protect the character and appearance of the area, I have also imposed a condition concerning the external materials to be used in the construction of the canopy. I agree that a condition relating to the provision of off-street parking prior to occupation of the dwelling is required in the interests of highway safety, particularly given the relatively narrow nature of Bell Common.
23. The Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. I am not satisfied that the Council's suggested condition No 5 that would remove many householder rights is necessary in this case taking into account the advice provided in the Framework and the existing extent of boundary treatment on the site which effectively screens most of the garden area. However, I have restricted extensions to the proposed dwelling, which appears to me could otherwise be enlarged excessively in relation to the plot size and adversely affect the character and appearance of this part of the Green Belt and Conservation Area.

Conclusions

24. For the above reasons and taking all other matters raised into account, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR