

Appeal Decision

Site visit made on 3 October 2016

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 9 November 2016

Appeal Ref: APP/T0355/W/16/3152866

White Lodge, Bisham Road, Bisham, Buckinghamshire, SL7 1RP

- 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 Roddy Ting against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 15/03965, dated 25 November 2015, was refused by notice dated 28 January 2016.
 - The development proposed is a single storey rear extension – lounge, new front covered entrance, first & second floor rear extension, first & second floor front extension, new lift location.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Bisham Conservation Area. The Council do not consider that the scale or form of the proposed extensions would harm the character and appearance of the CA and I have found no reason to conclude otherwise. I am therefore satisfied that it would preserve those interests.
3. The address given on the application form is White Lodge, Marlow Road. However, on the appeal form it is White Lodge, Bisham Road. Bisham Road is also used by the Council, therefore I have used this in the banner heading above.

Main Issues

4. The main issues are:
 - Whether the proposed extensions would be inappropriate development in the Green Belt;
 - The effect of the proposed extensions on the openness of the Green Belt;
 - Whether, having regard to local and national planning policy, the proposal would be acceptable in terms of flood risk, and;
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, and, if so, whether this
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would amount to the very special circumstances required to justify the development.

Reasons

Whether Inappropriate Development

5. The appeal site comprises a large and much extended detached care home. It sits within a row of substantial detached properties, which are predominantly residential in nature, along the east side of Bisham Road. Open fields lie to the rear.
6. Policy GB1 of The Royal Borough of Windsor and Maidenhead Local Plan 1999 (incorporating alterations adopted June 2003) (LP) restricts development in the Green Belt and makes no concession for extensions to existing buildings. The National Planning Policy Framework (the Framework), however, establishes that extensions or alterations of buildings within the Green Belt are not inappropriate provided that they do not result in disproportionate additions over and above the size of the original building. This therefore limits the weight I can afford to Policy GB1.
7. The Framework does not provide specific guidance on what constitutes a disproportionate addition. However, the definition of the original building is a building as it existed on 1 July 1948 or, if constructed after, as it was built originally. The Council have estimated that the proposal, in combination with previous extensions, represents a volume increase of approximately 260% over the original building. The appellant does not dispute this but makes the case that taking a numerical and formulaic approach should not take precedence over other considerations. Other considerations are dealt with below. In respect of the first main issue, however, the extensions proposed, in cumulation with other extensions to the property, would more than double the size of the original building and as such would clearly be disproportionate. The proposal is therefore contrary to Policy GB1 of the LP and paragraph 89 of the Framework in that it would constitute inappropriate development which is, by definition, harmful to the Green Belt. Substantial weight must be attached to this harm to the Green Belt.

Openness

8. Openness is an essential characteristic of the Green Belt. In that the bulk of the building would be increased by additional built development the proposal would reduce openness. However, the proposed extensions would be well contained around the original building infilling existing gaps. Therefore I find no material harm in terms of a loss of openness.

Flood Risk

9. The appeal site comprises areas designated as being at high risk from flooding, namely Flood Zones 2, and 3a and 3b. Policy F1 of the LP states that within such areas development will not be permitted unless it can be demonstrated that the proposal would not impede the flow of flood water, reduce the capacity of the flood plain to store flood water, or increase the number of people at risk from flooding. The Council have raised no objection in terms of impeding the flow of flood water or loss of flood plain storage but are concerned that the number of people being put at risk from flooding would be increased as the proposal includes the creation of two additional bedrooms at the care home.

10. Currently the home is registered for 23 residents. I also note that a condition was attached to a previous permission restricting the number of residents to 23 (ref 02/38768). There are only 21 bedrooms at the care home. Two of these are intended to be occupied on a shared basis. However, there are only 21 residents housed at present as the reality is that most residents prefer a single room. I also note that double bedroom occupancy for non-related individuals is now discouraged by the Centre for Policy on Aging. The appellant states that there is no intention to increase the occupancy of the care home above 23 and that it is proposed that all bedrooms would be used as single rooms, therefore the total number of residents who would reside at the home would remain at 23.
11. The Council go on to argue that it would be difficult to enforce a condition restricting the number of residents, such as that used on permission 02/38768, as it would require regular checks and any breach and subsequent enforcement action could result in a vulnerable person(s) losing their home. However, whilst such a condition might be difficult to enforce, it would not be impossible. As such it would meet the relevant tests. I therefore find no reason to conclude that such a condition could not be applied to the proposal before me, were it to be allowed. Consequently the proposal would not conflict with Policy F1 of the LP insofar as it would not increase the number of people at risk from flooding.
12. Notwithstanding the above, I must also consider the relevant sections of the Framework and the Planning Practice Guidance (PPG). As set out in paragraphs 100, 101 and 102 of the Framework the general approach to decision-taking in areas of flood risk is to apply the Sequential Test; the aim of which is to steer new development to areas with the lowest probability of flooding. If this is not possible, the Exception Test can be applied. However, for this to be passed, it must be informed by a site-specific flood risk assessment (FRA) which can demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users.
13. The appellant has submitted a FRA with the appeal. This covers the Exception Test, but at paragraph 3.5 it states that the Sequential Test does not need to be applied for minor development. However, the proposal before me does not fall within the definition of minor development as set out in the PPG. Both elements of the test have to be passed for development to be permitted and the Sequential Test must be passed before the Exception Test can be applied.
14. I have had regard to advice contained within the PPG regarding the application of the Sequential Test which sets out that a pragmatic approach should be taken to such matters. To that end it would be impractical to suggest the proposed extensions to the building could be sited at an alternative location. However, I am conscious that the proposed development resides within both Flood Zones 2 and 3 as set out in the FRA. It may, therefore, be possible to locate the extensions in areas of lower risk within the appeal site itself. In this respect a Sequential Test should have been carried out, without which I cannot be satisfied that the proposal would be acceptable in flood risk terms.
15. Whilst I acknowledge that the FRA demonstrates that the development would be safe from flooding for its lifetime, the sequential approach and Test must be applied first. Therefore, whilst I find no direct conflict with Policy F1 of the LP, the Framework and the PPG are significant material considerations. The

proposal would conflict with the approach to development in areas at high risk of flooding set out in both due to the lack of a Sequential Test having been carried out. On the evidence before me the proposal is therefore unacceptable on flood risk grounds. I note the appellant's anecdotal evidence in respect of actual flooding at the appeal site, but this does not override my findings above.

Other Considerations

16. The appellant makes the case that the proposed extensions are limited in size and would improve the function of the home and its ability to serve the local community. White Lodge is a well-established and popular care home set in a pleasant rural environment which is close to local shops and main transport routes. The extensions will provide improved accommodation for its residents and help to meet the specific needs of dementia sufferers, of which, I accept, there is an increasing need. I am mindful, however, that the proposal does not increase the number of residents which can be accommodated at White Lodge which limits the weight I can attach to these matters.
17. I accept the appellant's comments that the frontage of the property will be improved as a result of the proposed extensions. This would, however, only be a very modest improvement and as such can only be afforded limited weight.

Conclusion

18. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As outlined above, I do not find harm in terms of a loss of openness to the Green Belt. Nevertheless, having regard to the cumulative impact of previous extensions to White Lodge the proposal would constitute inappropriate development in the Green Belt by reason of being a disproportionate addition over the size of the original building. Substantial weight should be given to harm to the Green Belt. In addition to this I have found harm in respect of flood risk. Very special circumstances will not exist unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
19. I give moderate weight to the fact that the proposed extensions would improve and enhance the existing facilities at White Lodge. I also note the very modest improvement the proposal would make to the appearance of the building. These other considerations do not, however, outweigh the substantial weight which must be given to Green Belt harm and the harm in terms of flood risk, sufficient to demonstrate very special circumstances. The appeal is therefore dismissed.

Hayley Butcher

INSPECTOR