

Appeal Decision

Site visit made on 3 May 2017

by P Eggleton BSc(Hons) MRTPI

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

Decision date: 23 May 2017

Appeal Ref: APP/N4720/D/17/3170525

Four Winds Chase, Swillington Lane, Swillington, Leeds LS15 4LH

- 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 Mrs J Robson against the decision of Leeds City Council.
 - The application Ref 16/05056/FU, dated 11 August 2016, was refused by notice dated 20 January 2017.
 - The development proposed is a single storey rear extension with balcony over.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would amount to inappropriate development within the Green Belt; whether there would be any other harm; and whether the 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 development.

Reasons

Inappropriateness and any other harm

3. The property lies within the Green Belt. The proposal would replace an existing extension although the new addition would have a larger floor plan and a balcony above. Policy N33 of the Leeds Unitary Development Plan Review 2006 (UDP) advises that except in very special circumstances, approval will only be given for limited extension or alteration of existing dwellings. The Council's Householder Design Guide notes that approximately a thirty percent increase over and above the volume of the original house is considered to be a limited extension.
 4. The *Framework* advises that new buildings should be regarded as inappropriate unless they fall within an exception set out in paragraph 89. The exceptions include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The *Framework* does not specify a figure as to what represents a disproportionate addition. The UDP policy has similar objectives to the policies of the *Framework* and as such it can be afforded some weight. However, as it
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differs from them, I afford greater weight to the requirements of the *Framework*.

5. The property has been extended by the addition of the large attached garage; a first floor extension above a rear addition that I understand existed prior to 1947; and a rear garden room which is to be replaced. The appellant has calculated that the volume of the property following the proposed works would exceed the original volume by 51%. The Council's figures differ, resulting in an increase of 69%.
6. The garage is of a substantial size and footprint and together with the first floor rear addition and existing ground floor rear extension, these elements represent a considerable increase in floor space, size and in the appearance of the dwelling. On the basis of the appellant's figures, the increase in scale is substantial and represents a disproportionate addition over and above the size of the original building. As the replacement extension would be of greater size than the extension it would replace, the cumulative additions would represent inappropriate development in the Green Belt.
7. As the extent of the works would be limited, compared to the existing development, there would be only a marginal reduction in openness and this harm to the Green Belt would not be significant. The design of the proposal and its position to the rear of the property would ensure that there would be no other harm.

Other considerations

8. It is suggested that a fall-back position exists whereby the appellant could erect an extension, with a similar volume, but without the need for planning permission. I have been provided with correspondence dated 10 October 2016 describing such works but not the plans that appear to have been sent with that letter. The appellant accepts that a balcony could not be included within the provisions. The Council has raised the issue of the extent of the lawful curtilage of the dwelling which may differ from the extent of the area of land that is currently utilised as garden.
9. I am not entirely clear what form the proposed permitted extension would take and I cannot therefore judge whether it would fall within all the requirements of the Town and Country Planning (General Permitted Development) (England) Order 2015, notwithstanding that a notification procedure would need to be gone through without objection. In the absence of a certificate of lawful proposed development, I have a number of reservations with regard to the lawfulness of the described fall-back position.
10. For a fall-back position to be given significant weight, there must be some certainty or likelihood that the works would be carried out should the appeal fail. As it is unclear what accommodation would be provided or whether it would be significantly different to the existing extension, there has to be some doubt as to whether it would be implemented. Overall, whilst its potential is a consideration that must be taken into account, the weight I afford it is limited because of the uncertainties that remain.
11. Reference has been made to a decision relating to Glendene. In that case, the planning report suggested that the original extensions amounted to an increase

of 30% over and above the original. Whilst the proposal would have resulted in that figure being exceeded, a large shed was also to be removed and a condition imposed to restrict permitted development rights. Although it also included the replacement of an existing extension, the circumstances and considerations clearly differed from those relating to this property. An appeal decision in relation to a development in Hyndburn Borough has also been submitted. Without the plans and details, the decision letter is not sufficient to demonstrate that these cases are directly comparable.

Conclusions

12. The proposal represents inappropriate development in the Green Belt. I have established that no other harm would result. The *Framework* is clear that inappropriate development is, by definition, harmful to the Green Belt and substantial weight should be given to that harm. Very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, is clearly outweighed by other considerations.
13. I have had regard to the considerations put forward which rely to a large extent on a fall-back position. The details of this are not entirely clear and are not supported by a certificate of lawful proposed development. I am also not persuaded that it is likely to be implemented. I conclude that the suggested fall-back position, together with the other considerations put forward, do not weigh sufficiently in favour of the proposal to clearly outweigh the harm from inappropriateness. Very special circumstances do not therefore exist.
14. The proposal would conflict with the specific policies of the *Framework*, relating to the Green Belt, that indicate that the development should not be approved. It would also conflict with UDP Policy N33 and the advice within the Council's guidance. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR