



Appeal Decision

Site visit made on 21 March 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd April 2022

Appeal Ref: APP/K0425/D/20/3258935

Malt House Lodge, Marlow Road, Bourne End SL8 5PL

- 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 P Ward against the decision of Buckinghamshire Council - West Area (Wycombe).
 - The application Ref 20/06039/FUL, dated 23 April 2020, was refused by notice dated 26 August 2020.
 - The development proposed is single storey side extension.
 - This decision supersedes that issued on 23 March 2021. That decision on the appeal was quashed by order of the High Court.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal has been lodged the revised National Planning Policy Framework (the Framework) has been issued on 20 July 2021. The main parties are aware of this and have referred to it within their statement of cases.
3. The previous decision relating to this appeal was quashed as it was found that the Inspector had erred in his approach to determining the appeal. More specifically, the Inspector did not identify what constituted the 'original building' taking into account the fact that the existing dwelling was not the first dwelling to have been constructed on the site and the need to consider whether this was material given the differing definitions of 'original building' in the Framework and the development plan. These are matters that I have considered under the first main issue.

Main Issues

4. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - (ii) the effect on the openness of the Green Belt; and
 - (iii) if the proposal is inappropriate development in the Green Belt, 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

Whether or not inappropriate development in the Green Belt

5. Malt House Lodge is a detached bungalow situated within the Green Belt. The dwelling occupies a substantial plot and is set well back from the boundary with the highway on Marlow Road.
6. Paragraph 149 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt other than in a number of exceptions. One exception at Paragraph 149 c) is 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.
7. Taken together, Policies DM42 (Managing Development in the Green Belt) and DM43 (The Replacement or Extension of Dwellings in the Green Belt (including Outbuildings)) of the Wycombe District Local Plan (2019) (LP) also set out that development in the Green Belt is inappropriate. They also specify exceptions to this including for the replacement or extension of dwellings where they satisfy one or more conditions set out under Policy DM43.
8. The condition at Policy DM43 (e) allows for the extension or replacement of a dwelling *'where the volume of the original dwelling is between 240 and 720 cubic metres (m3), the total volume of the resulting building is no more than the volume of the original building plus 50%'*. The sub-text to this policy at Paragraph 6.229 of the LP defines *'original building'* as *'the building as it existed on 1 July 1948 or, if the first building was constructed later than this, the first building constructed'*. This differs to the definition of *'original building'* in the Framework which refers to *'a building as it existed on 1 July 1948 or, if constructed after 1948, as it was built originally'*.
9. The difference between the above definitions is pertinent to my considerations as the evidence before me suggests that the dwelling on the appeal site is not the first building constructed after 1 July 1948. The first building was a previous dwelling which was replaced by the existing dwelling following planning permission in 2016¹.
10. I am mindful that the LP was only adopted in 2019 and while the Framework has since been updated, there have been no changes since then to the Green Belt exception allowing for extension or alteration of a building or to the Framework's definition of original building. The examination which took place prior to the adoption of the LP would have had regard to the level of consistency of its policies with the Framework. Indeed, Policy DM20 of the LP and the sub-text to this policy at Paragraph 6.8 of the LP does not include Green Belt amongst the matters to be determined in accordance with the Framework. There is no substantive evidence before me to persuade me that the locally distinct circumstances, that led to bespoke Green Belt policies being adopted for the area, no longer exist. On that basis, I attach substantial weight to the identified policies and definition of *'original building'* in the development plan in this instance.

¹ LPA Ref 16/07527/FUL

11. The Council's evidence suggests that the first building constructed on the site had a volume of approximately 251m³ and that this was subsequently extended. The delegated report relating to the replacement dwelling confirms that it was to have a volume of 597m³. This equates to a 137.8% increase in volume over the size of the first building constructed on the site.
12. On the basis of the above volume figures, there has already been an increase in volume significantly above 50% of the 'original building' when considered against the definition in the LP. There is agreement between the parties that the extension would have a volume of approximately 98m³. Therefore, even if I were to base my assessment on the appellant's volume figures of 350m³ for the original building and 532m³ for the existing dwelling, once the extension is taken into account the cumulative volume of the dwelling would still significantly exceed the maximum 50% increase over the volume of the original building when considered under the terms and definitions in the LP.
13. The appellant contends that when the replacement dwelling was granted planning permission, it was done so on the basis that it was not materially larger than the dwelling it replaced. Even so, the delegated report relating to that permission indicates an allowance for an increase in size relative to the size of the first dwelling as originally constructed was already factored in. This also persuades me that the removal of permitted development rights for further extensions was justified. In any case, I must assess the proposal against the up-to-date development plan policies which were adopted after the current dwelling was granted planning permission.
14. Overall, taking all the above factors into account, the proposal would be a disproportionate addition which would be inappropriate development in the Green Belt and contrary to the development plan for the area.

The effect on the openness of the Green Belt

15. Paragraph 137 of the Framework sets out the essential characteristics of Green Belts, which are their openness and permanence. Openness can have a spatial aspect as well as a visual aspect.
16. Due to its footprint, height and volume, the extension would undoubtedly have a spatial impact albeit this would be limited due to the modest scale of the proposal. It would be discreetly located to the side elevation of the dwelling furthest from the front boundary, would be set in from the front and rear elevations of the dwelling and the top of its roof would be set down from the main roof. Consequently, the extension would not be prominent to passers-by on Marlow Road.
17. Overall, taking the spatial and visual impacts together, the proposal would have a modest effect on the openness of the Green Belt. In that regard it would not preserve openness thereby conflicting with the aims of including land within the Green Belt when assessed against the Framework.

Other Considerations

18. The Council's delegated report under 'Design and impact on the Chilterns Area of Outstanding Natural Beauty (AONB)' acknowledges that the proposal incorporates appropriate design elements and materials. I am also satisfied that due to the sympathetic design of the proposal and its discreet positioning, it would not result in any material harm to the character and appearance of the

area including the Well End Conservation Area, the setting of the nearest neighbouring Grade II listed building at The Old Malt House or the Chilterns AONB. However, the acceptability of these matters carries neutral weight in decision making terms.

19. My attention has been drawn to three appeal decisions². However, from the evidence before me, those particular developments did not fall within the area covered by the LP and were not assessed against the locally distinct Green Belt policies which form part of the development plan relevant to the case before me.
20. The appellant suggests that they would be agreeable to a condition relinquishing their right to erect an outbuilding for which a certificate of lawful proposed use or development³ has previously been issued. The plans for the outbuilding indicate it would provide a gym/games room and a garden store and in that regard would provide similar accommodation to that indicated within the proposed extension. However, I agree with the Council that such a condition would not provide sufficient certainty that the outbuilding would not be erected given it would only come into effect on implementation of the planning permission. Therefore, the appropriate means to secure the waiver of rights to erect such a building would be through a section 106 agreement. Given such an agreement is not before me, I attach very limited weight to this matter.

Green Belt Balance and Conclusion

21. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise.
22. The development constitutes inappropriate development in the Green Belt and conflicts with the development plan in this regard which is a matter to which I attach substantial weight. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. As part of the assessment, I have also found that the development would result in a modest impact on the openness of the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome. The other considerations put forward in favour of the proposal only carry very limited weight.
23. In conclusion, and on balance, the substantial weight to be given to Green Belt harm, in addition to the other harm identified, is not clearly outweighed by other considerations and therefore the very special circumstances needed to justify the proposed development do not exist. Consequently, the appeal should be dismissed.

M Russell

INSPECTOR

² Appeal Refs APP/N0410/D/13/2205980, APP/N0410/D/13/2206394 and APP/N0410/D/13/2205519

³ LPA Ref 20/05062/CLP