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## Appeal Decision

Site visit made on 10 January 2023

**by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 11<sup>th</sup> January 2023**

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**Appeal Ref: APP/C3105/D/22/3294036**

**2 The Orchard, Horton-Cum-Studley, OX33 1BW**

- 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 and Mrs Geoff Harrison against the decision of Cherwell District Council.
  - The application Ref 21/02986/F, dated 27 August 2021, was refused by notice dated 22 December 2021.
  - The development proposed is described as '*double storey rear/side extension and associated internal alterations*'.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main parties agree that the appeal site is located within the Green Belt. As such, the main issues are:
  - (i) Whether the proposal would constitute inappropriate development in the Green Belt; and,
  - (ii) If the proposal would be inappropriate, 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 it.

### Reasons

#### *Whether inappropriate development*

3. Policy ESD 14 of the *Cherwell Local Plan 2011-2031* - adopted July 2015 (LP) sets out that development proposals in the Green Belt within the Green Belt will be assessed in accordance with government guidance. The Framework sets out national policy on Green Belts and is an important material consideration. Paragraph 147 of the Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
4. Paragraphs 149 and 150 of the Framework indicate limited exceptions to inappropriate development. Those listed in Paragraph 150 are of limited relevance in this case and it is not suggested by the parties that the proposal would fall into any of those exceptions: I concur.

5. Paragraph 149 sets out exceptions to inappropriate development which includes part c); '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 pivotal dispute between the parties revolves around this point.
6. The Framework does not define what is considered by the term 'disproportionate additions'. Put another way it is a matter of planning judgment on the basis of the scheme and its context for the decision-maker. There is also no clear direction within local planning policy beyond the Officer's report which indicates that, as a general rule of thumb, floorspace of greater than 50% of the original dwelling is considered to be disproportionate. Whilst I do not treat this figure as an absolute it is, nonetheless a useful starting point to inform whether the proposal would represent a disproportionate addition or not.
7. The Framework defines in its glossary the original building to mean '*A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.*' The planning history of the appeal site suggests that the appeal building was erected in the late 1950s. At this time, the floor area was around 116sqm<sup>1</sup>.
8. The Council suggests that the proposal would result in an additional 80sqm of floorspace being added to the building, resulting in a new total area of approximately 196sqm. The Appellant considered that the total floor area of extensions is around 76.44sqm comprising the 'double storey aspect' of around 51.52sqm, the remaining single storey aspect of roughly 9.24sqm, and the conservatory of circa 15.68sqm. For some reason, which is unclear, the Appellant suggests that the porch is exempt as it is under 3sqm which would return a figure of approximately 79.44sqm. Nevertheless, both main parties consider that the additions to the original dwelling amount to somewhere between 76sqm and 80sqm.
9. The Appellant suggests that their figure of a total increase of circa 76.44sqm would represent a 65% increase in area terms above the original building<sup>2</sup>. This figure would surpass the 50% 'rule of thumb' used by the Council, and thus indicate that the proposal would be a disproportionate addition to the appeal building in terms of a straightforward mathematical equation.
10. However, as noted above, assessing whether the proposal would be disproportionate is also a matter of planning judgment. In this respect, the proposal seeks the erection of a 'wrap around' two storey rear and side extension as shown on drawing 221.028-1. This would see the introduction of two storey built form on this corner of the building where currently there is none. This would add to the vertical emphasis of built form on this part of the existing building. Moreover, the starting point is the original building rather than the building as it stands today.
11. The use of matching materials and alignment with the roof slope would make the extension appear subservient to the building, and therefore unoffensive itself. Nonetheless, when the additions to the original building are considered

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<sup>1</sup> Appellant's Statement of Case, point 2)a)

<sup>2</sup> They also pose the theoretical question of removing the conservatory, and that that would provide further scope for the proposal. However, that is not what is shown on the submitted drawings, so does not form part of the calculations here.

as a whole, the further extension would appear as a disproportionate addition from the original building.

12. The Framework makes clear at Paragraph 137, that the essential characteristics of the Green Belts are their openness and permanence, so any reduction in these characteristics would also be harmful. In terms of openness of the Green Belt, the proposal seeks a disproportionate increase in the size of the existing building in terms of its footprint, floorspace, and introduction of a two storey extension. When all of these various factors are compared against the original building, it is clear that the alterations proposed would further erode the openness of the Green Belt.
13. When taking into account the increase in dimensions of the extension in comparison with the original building, I find that the proposal would result in disproportionate additions over and above the size of the original building. Accordingly, the proposal would represent inappropriate development in the Green Belt as it does not fall within one of the exceptions set out in Paragraph 149 and 150 of the Framework. For similar reasons it would not comply with Policy ESD 14 of the LP.

#### *Other considerations*

14. I have found the proposal would constitute inappropriate development within the Green Belt. The Appellant's evidence suggests that the following very special circumstances provide justification for it to be permitted in Green Belt terms.
15. The Appellant asserts that under permitted development rights various extensions would be built. For example, an extension of 8 metres to the rear and 8.5 metres wide, resulting in a total area of 68sqm. Or alternatively a two-storey extension with a depth of 3 metres and width of 8.5 metres and resulting floor area of 51sqm. However, I have not been provided with any detailed plans showing how such outcomes would be achieved in practice – for example given the kite shape of the appeal site, is there sufficient space between the rear elevation and the boundary in the rear garden to accommodate such an extension? In the absence of detailed evidence that such potential schemes have evolved beyond theory, I afford the fallback position factor minimal weight.
16. The Appellant has also drawn my attention to other examples within the Green Belt where the Local Planning Authority has determined that increases in excess of the 50% rule of thumb were acceptable. As aforesaid, the figure of 50% is an approximate one. I have not been provided with the full details of these other schemes, on other sites, pertaining to single storey extensions, two storey extensions and even a new dwelling across a number of years. The paucity of information means that it is unclear as to how planning judgement has been exercised in those cases so as to find those schemes acceptable. What is clear, however, is that the proposal in this case would result in unacceptable Green Belt harm. The absence of harm in these matters means that these should be regarded as neutral in the balance.
17. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

## **Overall Conclusions**

18. Paragraph 148 of the Framework requires decision-makers to ensure that substantial weight is given to any harm to the Green Belt. In this case the proposal is inappropriate development and would reduce openness of the Green Belt.
19. Other considerations weighing in favour of the development must clearly outweigh this harm. Principal among these are the use of good design and matching materials. Whilst I acknowledge these, and all other considerations put forward by the appellant, Paragraph 144 makes clear that all development in the Green Belt is subject to stringent national planning policy tests, which I have applied.
20. In light of this, I conclude that those considerations put forward which weigh in favour of the proposal fail to clearly outweigh the substantial harm by reason of inappropriateness. The very special circumstances needed to justify the proposal do not therefore arise. The proposal conflicts with the Policies of the LP and of the Framework, the aims of which I have aforesaid.
21. Accordingly, I conclude that the appeal should be dismissed.

*C Parker*

INSPECTOR