



Appeal Decision

Site visit made on 14 February 2023

by M. P. Howell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2023

Appeal Ref: APP/Q3115/W/22/3302256

Mulberry House, The Ridings, Shotover Hill, OXFORD, OX3 8TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr and Mrs Seaward against the decision of South Oxfordshire District Council.
 - The application Ref P21/S5236/FUL, dated 14 December 2021, was approved on 13 May 2022 and planning permission was granted subject to conditions.
 - The development permitted is the demolition of the existing single storey side extension, construction of a two-storey side extension and the sub-division of existing property to form additional dwelling and associated infrastructure.
 - That the development hereby approved shall be carried out in accordance with the details shown on the following approved plans, NTA 20 20002 P5, NTA 20 20000 P5, NTA_20_20098 P3, NTA_20_20051 P4, NTA_20_20050 P4, NTA_20_20052 P4, NTA_20_20003 P2, NTA_20_20053 P4, NTA_20_20300 P6, NTA_20_20301 P7, NTA_20_20302 P6, NTA_20_20101 P6, NTA_20_20100 P6, NTA_20_20102 P6, NTA_20_20103 P6, NTA_20_20200 P5, NTA_20_20201 P5 and NTA_20_20099 P7, except as controlled or modified by conditions of this permission.
 - The reason given for the condition is: To secure the proper planning of the area in accordance with development plan policies.
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Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. Application Ref P21/S5236/FUL was submitted seeking planning permission for a two-storey extension and subdivision of the property to form two dwellings. The scheme was approved, but in amended form on account of the two-storey side extension and rear flat roof dormer being reduced in size. That is hereafter referred to as the 'approved scheme'. Evidence in the form of a 'Building Notice' has been provided to show works on the approved scheme are a plausible fall-back position. The Building Notice provides a good indication, were I to dismiss the appeal, that the appellant would implement the approved scheme.
3. The appellant seeks the removal of condition 2, and its replacement with a condition setting out the plans that reflect the originally submitted proposed development for a previous householder scheme. For ease of reference, the plans submitted with the appeal show the 'approved scheme' as existing as approved and the proposal being considered by the appeal as 'proposed'. I have considered the drawings under the principles established by the Courts in *Wheatcroft*¹. Although this scheme was not consulted upon as part of the

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

scheme, the extended width would not affect any neighbour or third party. Furthermore, the plans were submitted with the appeal submission in a timely manner. I am, therefore, satisfied that no party, including the Council who have viewed the additional information, would be prejudiced by my assessing the scheme with regard to it.

4. For clarity, the plans submitted with the appeal include drawing refs NTA_20_20003 Rev 3, NTA_20_20098 Rev 3, NTA_20_20099 Rev 6, NTA_20_20100 Rev 5, NTA_20_20101 Rev 5, NTA_20_20102 Rev 5, NTA_20_20103 Rev 5, NTA_20_20200 Rev 4, NTA_20_20201 Rev 4, NTA_20_20300 Rev 5, NTA_20_20301 Rev 6, NTA_20_20302 Rev 5. I have hereafter referred to that scheme as the 'development proposed'.

Main Issue

5. The main issues are whether the disputed condition is reasonable and necessary, having regard to: -
 - whether the development proposed is inappropriate development in the Green Belt, and its effect on openness
 - The effect of the development proposed on the character and appearance of the area
 - If the proposal is inappropriate development 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

Inappropriate Development in the Green Belt

6. Paragraph 149 of the National Planning Policy Framework 2021 (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt. New buildings within the Green Belt are inappropriate unless, amongst other things, they are:
 - 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.
 - limited infilling or the partial or complete redevelopment of previously developed land whether redundant or in continuing use (excluding temporary buildings), but subject to not having a greater impact on openness.
7. Policy STRAT6 of the South Oxfordshire Local Plan 2016 (LP) is consistent with the Framework, outlining that the Green Belt and its key functions will be protected from harmful development. Development is restricted to those limited types of development which are deemed appropriate by the Framework, unless very special circumstances can be demonstrated. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Paragraph 149 (c)- the extension or alteration of a building

8. The Framework defines the original building as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally. As the single storey side extensions attached to the dwelling were approved in 2011², they cannot be included as part of the original dwelling. The Framework also does not provide a definition of 'disproportionate additions' and therefore an assessment of whether a proposal would amount to a disproportionate addition over and above the size of the original building is a matter of planning judgement.
9. The two storey extensions proposed would be as wide as the existing single storey extensions to the side. It would have a pitched, asymmetrical roof with a flat roof dormer on the rear roof plane of the extension.
10. The extensions would significantly increase the width of the original building at ground and first floor, resulting a dominant side addition that would impact on the scale, massing, and appearance of the original building. An attempt has been made to break up the scale and mass of the proposed front elevation by including a set back and a change to the eaves height. Although this does provide a visual break, the set back and eaves height differences are small, and therefore they would not adequately mitigate the substantial width of the proposed extension and its adverse impact upon the scale, massing and appearance of the original building.
11. Consequently, the extension would not appear subservient, and would adversely impact upon the scale, massing, and appearance of the original building. For these reasons, the extensions would be disproportionate in size to the original building, contrary to paragraph 149 (c) of the Framework, and the objectives of Policy STRAT6 of the LP.

Paragraph 149 (g)- Partial redevelopment of previously developed land

12. The appellant indicates that the proposal would amount to the partial or complete redevelopment of previously developed land (PDL). The Council does not dispute the site is PDL, and I have no reason to disagree. The Framework excludes land in built-up areas such as residential gardens, but it is accepted that residential gardens which are not in built up areas can be included within the definition. In my judgement, it is reasonable to consider that the site is outside of a built-up area, and so could be defined as PDL.
13. However, to comply with part (g) of paragraph 149 of the Framework, the proposed development should not have a greater impact on the openness of the Green Belt than the 'existing development.' My conclusions on openness will, therefore, determine whether the proposed redevelopment is inappropriate.
14. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both a visual and spatial dimension and the absence of visual intrusion does not mean that there is no impact on the openness of the Green Belt.

² Council reference P11/W0124

15. The extensions would result in an increase in the amount of built form on the site. Currently, the scale, bulk, massing, and prominence of the existing side extensions are mitigated by the recessed link together with their set back and single storey height. In contrast, the proposed ground and first floor extensions would be materially larger than the existing development, by virtue of the additional volume, height and floorspace of the proposed first floor extensions and rear flat roofed dormer. The taller extensions would also be more visually prominent within the site and from the surrounding area. This increase in built form and height would, therefore, reduce the visual and spatial openness of the site and surrounding area.
16. As such, the development proposed would have a greater impact on the spatial and visual openness than that currently derived from the existing development. Accordingly, the proposal would be inappropriate development, which, by its very definition, is harmful to the Green Belt and should not be approved except in very special circumstances. The proposed development would therefore fail to accord with paragraph 149 of the Framework. Furthermore, it would conflict with Policy STRAT6 of the LP, which, amongst other things, seeks to ensure the Green Belt is protected from harmful development in line with the limited types of development set out in the Framework.

Character and Appearance

17. The area is made up of a scattering of residential properties in a variety of scales and styles in a steep sloping wooded area. Whilst there is no dominant scale or style to the dwellings in the vicinity, there is a predominance of large detached and semi-detached dwellings within dispersed elevated plots to the north of The Ridings.
18. Mulberry House itself is a large two storey semi-detached dwelling finished in render and brick with a pitched roof. The site is elevated and set back from the vehicle highway. The dwelling and adjoining semi face the road and comprise a wide two storey element with bay window features to the front. Single storey extensions exist to the side of Mulberry House. The adjoining semi is not as wide as Mulberry House but has been extended to the side at two storey. Despite Mulberry House being wider and the newer additions to the neighbouring property, the scale, form, materials, and appearance of the front elevation of the original property has largely been maintained.
19. As already indicated, the proposed first floor side extensions would significantly increase the width of the building at first floor, resulting a dominant side addition. The width of the extension would impact on the scale, massing, and appearance of the building. An attempt has been made to break up the scale and massing of the proposed front elevation by including a set back and a change to the eaves height. Although this does provide a visual break, the differences are small, and would not adequately mitigate the substantial width of the proposed extension and its adverse impact upon scale, form and appearance of the existing building. Views of the site are localised from the Ridings to the front and side, but mid distance views are screened by the changes in levels, intervening development, trees and landscaping.
20. It is acknowledged that the variety in type of housing in the locality provides an element of flexibility to what can be proposed. Nevertheless, I consider that the scale and design issues highlighted above would mean that the extension to form the dwelling would have a detrimental impact on the character and

appearance of the host building and the wider area, by virtue of the views from the localised public vantage points.

21. I acknowledge that the 'approved scheme' is a viable fall-back position, but this would not have the same level of harm as the proposal before me. The 'approved scheme' had been reduced in width by 1m, which together with the set back and change in eaves height would lessen the scale of the proposed extension and its impact to the existing property. Consequently, the approved scheme would not be as harmful to the existing building and the wider area as the scheme now before me.
22. Accordingly, the proposed development would have an adverse impact on the character and appearance of the host property and wider area. The proposed development would be contrary to Policies DES1 and DES2 of the LP, which require new development to be of high-quality design, and have respect for local character, both physically and visually enhancing and complementing its surroundings.

Other considerations

23. I turn now to address other considerations that might clearly outweigh harm arising from inappropriate development in the Green Belt, to provide the very special circumstances required to justify a grant of planning permission.
24. The appellant has outlined that the 'approved scheme' should be considered as the 'existing development', and the initial building notice shows the firm intent to carry out the works and implement the permission. Also, the 'approved scheme' has a similar or comparable level of impact on openness as the 'development proposed'. The larger dwelling would also be beneficial in terms of the internal space for the occupiers.
25. Although I appreciate the approved development is a plausible fall-back, in my judgement this is not the same as 'the existing development'. At the time of my visit no works were ongoing, and I have determined 'the existing development' to be what exists on site at present. In my view, this position or contention could often be put forward in cases to incrementally increase the scale and volume of development, which might otherwise be deemed unacceptable.
26. Even if I were minded to agree that the 'approved scheme' is the 'existing development', the proposed development would still be wider at first floor with a larger dormer. Consequently, albeit a smaller difference, the proposed development would still have a larger volume, and therefore, a greater impact on spatial openness than the 'approved scheme.' Consequently, the approved scheme as a fall-back position would not have the same level of harm to spatial openness at the site as the proposal before me. I attribute only limited weight to these circumstances in favour of the proposal.
27. A larger dwelling would be a positive aspect of the development for future occupiers, but the approved scheme would also provide sufficient space for future occupiers. As such, I would attribute only limited weight to these circumstances in favour of the proposal.

Green Belt Balance and Conclusion

28. Having regard to the substantial weight given to the harm to the Green Belt³, the very special circumstances set out by the appellant, singularly or cumulatively, do not clearly outweigh the harm to the Green Belt. Therefore, 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 and the development would conflict with the Framework and the relevant policies of the development plan outlined above.
29. For the above reasons, having considered the development plan, the approach in the Framework, and all other relevant material considerations, the appeal should be dismissed.

M. P. Howell

INSPECTOR

³ Paragraph 148 of the National Planning Policy Framework.