



Appeal Decision

Site visit made on 1 August 2023

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th August 2023

Appeal Ref: APP/W0530/W/22/3306484

215 Wimpole Road, Barton, Cambridge CB23 7AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr & Mrs Rajan Jethwa against South Cambridgeshire District Council.
- The application Ref 22/01507/HFUL, is dated 28 March 2022.
- The development proposed is described as the "demolition of conservatory and shed. Erection of two storey side extension, single storey rear extension, first floor rear extension, freestanding private gym and interconnecting undercover areas".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made on the basis that the Council failed to make its decision within the prescribed period. Although the Council has not provided a written statement the appellants have included a series of emails which indicate that had it been given the opportunity to determine the planning application, the Council would have refused planning permission as a result of the proposal representing a development that is disproportionate in size to the original dwelling, resulting in harm to the openness of the Green Belt.

Main Issues

3. Given the above, I find that the main issues in this appeal are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy,
 - the effect of the proposal on the openness of the Green Belt, and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether Inappropriate Development

4. Policy H/13 of the South Cambridgeshire Local Plan 2018 (the LP), states that extensions to dwellings in the Green Belt will be permitted where the extension would not result in a disproportionate addition to the original dwelling. Policy

S/4 of the LP also states that new development within the Green Belt will only be approved in accordance with Green Belt Policy in the Framework.

5. The Framework states that the construction of new buildings should be regarded as inappropriate development within the Green Belt, the exception being those as set out at paragraphs 149 and 150. In this instance, paragraph 149 c) of the Framework states that the extension or alteration of a building is not considered inappropriate development within the Green Belt, provided that it does not result in disproportionate additions over and above the size of the original building. Thus, I find Policies H/13 and S/4 of the LP to be in general conformity with the Framework.
6. The Framework does not define the term “disproportionate”, and it is therefore a matter of planning judgement, based upon the facts before me, such as the proposal’s height, floorspace, volume, design and the configuration of the plot and dwelling. However, the Framework does define the term ‘original building’ as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
7. Paragraph 149 c) requires that any extension must not result in a disproportionate addition over and above the size of the original building. In this case, this would be the building as originally constructed and it is necessary to take into account the cumulative effect of any previous extensions or additions as well as the currently proposed scheme. I have no reference to the building as originally built but note the planning history of the appeal site from the appellants planning statement which reveals that the building was granted planning permission in 1950 and added a garage and a porch in 1991. Although I have not been provided with such details, I did note the detached double garage and the porch during my site visit. Given the ancillary nature of these structures in this case it seems reasonable to consider the previous additions in the context of paragraph 149 c).
8. In some local authority areas local plans will contain a specific limit by which a property may be extended without being disproportionate. However, no such limit is set in this instance and as stated previously, the consideration therefore requires the exercise of judgement. Footprint is only one factor to consider, and it is also reasonable to take account of matters such as volume and visual impact into account. Moreover, the fact that a development would be smaller than that permitted by the Town and Country (General Permitted Development) Order (England) 2015 (the GPDO), does not necessarily mean that it would not be considered as a disproportionate addition. Furthermore, the test is not how much a percentage of a site will remain undeveloped post development, but rather, whether it would result in disproportionate additions over and above the size of the original dwelling.
9. In this instance, the appellants confirm that the existing building has a floorspace of 262 m. sq. and the proposed development would add a further 269 m. sq. However, this does not include the double garage already erected at the site. Notwithstanding the existing garage, the proposal would nonetheless double the amount of floorspace currently being provided, extending the length of the building considerably with a two-storey extension, which would completely fill the gap that currently sits between the eastern end of the dwelling and the detached double garage, and project beyond the rear elevation of the existing building. The addition of a further detached building on

the western side of the dwelling, to be used as a private gym, would further increase the amount of floorspace to be provided.

10. The proposed two-storey extension and other additions are substantial in scale, not only in footprint but volume and it notably increases the visual depth and massing of the dwelling. In my view, even taking into account the removal of the existing conservatory and shed, and the size of the curtilage associated with the building and the distance from its boundaries, further substantial structures in the form of the two-storey extension, single storey and first floor rear extensions, along with the detached gym building would clearly represent a disproportionate addition.
11. Therefore, the proposal would not fall within any of the exceptions listed at paragraph 149 of the Framework and would amount to an inappropriate form of development within the Green Belt. The proposal would be in conflict with the aims of the Framework and Policies H/13 and S/4 of the LP as a result.

Openness

12. Paragraph 137 of the Framework states that the essential characteristics of Green Belts are their openness and their permanence. In considering the concept of openness, the courts have found that it broadly has two dimensions; spatial and visual. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. Equally this does not mean that the openness of the Green Belt has no visual dimension. This approach was also endorsed in *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) [2020] UKSC 3*, which confirmed how to take account of the visual effects which is a matter of planning judgement rather than one of legal principle.
13. The proposed development would create an extended dwelling which would be disproportionate in size to the original building and would have a significant spatial impact on the openness of the Green Belt due to the increase in its volume and bulk. Therefore, there would be an adverse impact on the openness of the Green Belt from the proposed extension, in that it would be reduced.
14. Whilst there is screening to the front boundary in the form of trees and other landscaping, the property to be extended is nonetheless evident from the road to the front and is clearly visible to passing traffic. The proposed extensions would therefore also erode the visual openness of the Green Belt and from my visit and driving past the site in both directions, would be clearly visible from the east and west, even as traffic passes at speed. The proposal, especially the two-storey side extension and gym building would also be visible from surrounding properties and from local vantage points, notably the pedestrian footpath on the opposite side of the road.
15. Thus, the development would result in both spatial and visual harm to the openness of the Green Belt. I reach this conclusion having regard to the *Europa Oil & Gas v SSCLG [2013] EWHC 2643 (Admin)* case cited by the appellants, noting the material differences between a scheme for mineral extraction, and the residential development before me which proposes a use that can harm the Green Belt as a result of its effect on openness.

16. Therefore, the Framework is very clear at paragraph 148 that substantial weight should be given to any harm to the Green Belt, and development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.

Other Considerations

17. The appellants refer to the ability to develop the site using rights conveyed under the GPDO as a fallback position. However, for permitted development rights to be a material consideration one must establish whether there is a greater than a theoretical possibility that the development might take place and would the fallback be materially more harmful than the appeal scheme.
18. The proposal before me seeks a very large two storey side extension which cannot be developed under permitted development rights and there is nothing substantive before me to demonstrate that should this appeal fail, the appellants would carry out all of the rights available to them. Although I have been provided with a plan detailing the extensions that could be erected under permitted development rights, which includes a very large 8m single storey rear extension, the alterations and additions permitted by the GPDO do not reflect the accommodation that the appellants are seeking to develop. Moreover, the majority of rights conveyed under the GPDO are for single storey additions, which one could argue would have a less harmful effect upon the openness of the Green Belt. Other alterations such as raising the roof require the prior approval of the Council, and I have nothing before me to demonstrate that this has been sought.
19. Moreover, in considering the appeal at Green Lane Farm¹, the Inspector noted that the site had planning permission and a lawful development certificate in respect of a similar development that could be implemented and provide functional and substantial living accommodation as a fallback position. The fact that planning permission had been granted at Green Lane Farm indicated a strong possibility that the fallback scheme would be implemented should the appeal fail. That is not the case before me. Thus, I only attribute the rights afforded under the GPDO limited weight.
20. The appellants are also seeking to reinforce the planting and vegetation on the western perimeter to further reduce views. However, the use of landscaping to shield inappropriate development is not good planning and, in any event, such landscaping will take a considerable amount of time to become established and cannot be relied upon to remain in perpetuity.
21. I note that the development would be acceptable in terms of design, largely reflecting the current building to its principal elevation, with a more contemporary design to the rear. The appellants have also referred to the extension providing accommodation so that, post Covid-19, there is space to work from home. Additionally, the development will be sustainably designed with renewable energy resources, and planting will be increased to improve habitats across the site. Whilst noting the private benefits that will ensue as a result of these improvements, I am not persuaded that they amount to the very special circumstances required to overcome the harm to the Green Belt.

¹ APP/R0660/D/19/3240413

22. The appellants also make reference to 22 Roman Hill, whereby the Council permitted a development for a single storey rear and front extensions and a two-storey side extension, and oil tank. Whilst I note the planning permission, there is nothing before me demonstrating the circumstances that led to permission being granted. Moreover, I have no calculations regarding the sites existing and proposed floorspace. Thus, whilst I note the permission at 22 Roman Hill, I am not persuaded that it represents an irresistible reason to find in favour of the development before me. Moreover, each development must be considered on its own merits which is a fundamental principle that underpins the planning system.

Green Belt Balance and Conclusion

23. Paragraph 148 of the Framework requires that substantial weight is given to any harm to the Green Belt. I have found harm to the Green Belt by reason of the proposed development's inappropriateness and harm to the openness of the Green Belt. The Framework states that very special circumstances will not exist unless harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

24. For the reasons given, I attribute limited weight to the private benefits of the proposal to the appellants and the fallback position. Consequently, I conclude that the other considerations put forward would not, in their totality, clearly outweigh the harm to the Green Belt that I have identified. The very special circumstances necessary to justify the development therefore do not exist and the development would conflict with the Green Belt protection aims of the Framework and Policies H/13 and S/4 of the Local Plan.

25. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR