



Appeal Decision

Site visit made on 19 September 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Appeal Ref: APP/V3120/D/22/3311807

Hillfield, Road between Henwood and Abingdon Road, Cumnor, Oxford OX2 9QU

- 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 Sara Ponon against the decision of the Vale of White Horse District Council.
 - The application Ref P22/V1569/HH, dated 22 June 2022, was refused by notice dated 31 October 2022.
 - The development proposed is described as 'Replace existing garage with a new annexe and a new pool enclosure'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies.
 - The effect of the proposal on the openness and purposes of the Green Belt.
 - The effect of the proposal on the character and appearance of the area.
 - Whether any 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 required to justify the proposal.

Reasons

Whether Inappropriate Development

3. The Framework states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It requires, when considering any planning application, that substantial weight is given to any harm to the Green Belt.
4. The construction of new buildings should be regarded as inappropriate in the Green Belt. However, the Framework identifies exceptions to this. Core Policy 13 of the Vale of White Horse Local Plan Part 1 Strategic Sites and Policies (Local Plan Part 1) and Policy DBC4 of the Cumnor Parish Neighbourhood Development Plan (Neighbourhood Plan) are generally consistent with the Framework in this respect.

5. The proposal seeks to replace an existing outbuilding which is described as a garage. However, the replacement building would be used for residential accommodation and therefore would not be in the same use as the existing outbuilding. Moreover, the replacement building would have a considerably larger footprint and floor area than the building it would replace. As such the new building would be materially larger than the one it replaces. In these respects, the proposal would fail to satisfy the requirements as an exception set out in Paragraph 149 d) of the Framework for replacement buildings.
6. Exceptions, as stated in Paragraph 149 c) of the Framework, also include extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. Local Plan Core Policy 13 and the Framework do not define 'disproportionate additions.' Nor is this matter clarified in the supporting text of the relevant development plan policies.
7. The proposal would extend an existing outbuilding, which the evidence indicates is a single garage and a store/plant room, to an annex. This annex would comprise three good sized bedrooms, bathrooms, a spacious kitchen/diner and a lounge. As such the relatively small existing garage would be extended to the size of a family dwelling. Moreover, the floor area of the existing outbuilding would more than double in size and in this regard this extension would be a disproportionate addition to this existing building.
8. It has been put to me that this proposal, when considered as an extension to the dwelling in this sizeable plot, would not be disproportionate. Court Judgments have held that it *'...is not to be interpreted as being confined to physically attached structures but that an extension for the purposes of that provision [paragraph 149 c) of the Framework] can include structures which are physically detached from the building of which they are an extension.'*¹ Whether a detached structure would amount to an extension of an existing building is a matter of fact and degree.
9. In this case the existing garage appears used as an adjunct to the domestic use at the property. However, the garage is located on the opposite side boundary of the plot to the dwelling, it is also divided from the dwelling by a swimming pool and patio area such that there is a clear visual divide between the functions of the respective existing buildings. Notwithstanding this, even if I accepted that the proposal would be an extension, this extension would multiply the living accommodation at the dwelling substantially with the addition of five good sized rooms. Roughly half of this proposed floor area would be subterranean. Be this as it may, the original family sized dwelling would be substantially increased by this proposal.
10. Although the appeal property is a sizeable plot, the dwelling is a relatively compact form in this plot. Moreover, the original dwelling building would be altered to a built form that would cover most of the width of this plot. In doing so, the proposal would change the original, modestly proportioned, family sized dwelling to an expansive property. In this regard, the substantial extension would considerably alter the existing dwelling and would result in a disproportionate addition over and above the size of this original building.

¹ Ref: Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145 (Admin)

11. In conclusion on this matter, the proposal would not be a proportionate addition to the original building at the property. As such the proposal would not satisfy the requirement as an exception to development in the Green Belt as set out in Paragraph 149 c) of the Framework. Nor as outlined above would the proposal satisfy the requirements for a replacement building. Consequently, the proposal would be inappropriate development which by definition would be harmful to the Green Belt to which I attach substantial weight in this appeal.

Openness and Purposes

12. Paragraph 137 of the Framework establishes 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 permanence.
13. The appeal property is surrounded by open countryside with intermittent and sparse development comprising scattered dwellings and farmsteads. While much of the appeal plot has been developed, this development includes a long drive, hardstanding, patio and a pool; the number of structures in the site are limited. The few structures that are in the site are reasonably well spaced, and this provides a sense of openness at the property. Also, while the plot is a good size it is relatively long and narrow.
14. The appeal property is screened by high hedges and fences at the front and side boundaries. As such there are only glimpsed views of the dwelling and outbuildings at the site from public vantage points.
15. The proposed building would be set close to the side boundary fence and would have a lower roof profile than the building that it would replace. However, the proposed roof height would only be a little lower than the existing roof ridge of the garage. Moreover, the footprint of the proposed building would be substantially larger than the existing garage. In this regard, the proposal would fill existing space at the property that is currently relatively devoid of structures above the ground level. The proposed building would result in an expansion of structures such that built forms would extend across much of the width of the plot. As such, there would be a visual and spatial change at the site which would erode the existing space and openness in the appeal property, and the openness of this part of the Green Belt would therefore not be preserved.
16. This erosion of openness would be extremely limited and would not be easily discernible from outside the property. I also note that, contained within the site, the proposal would not conflict with the purposes of the Green Belt which seek to safeguard the countryside, preserve the setting of historic towns and prevent towns merging. Be this as it may, while the effect would be localised, harm to the openness of the Green Belt would occur.

Character and Appearance

17. The existing outbuilding has the appearance of a garage at its front elevation, with a door and windows on its side elevation. The relatively small proportions and pitched form of this outbuilding complement the pitched form of the one and half story dwelling at this property.
18. The proposal would replace the existing sympathetically design outbuilding with a flat roofed structure that would have a largely featureless front elevation

above ground floor level. Also, the proposed structure would be wider and deeper in length than the outbuilding it would replace, and its footprint would not be significantly shorter in length than the existing dwelling. As such, while the roof height of the proposed building would be lower than the dwelling, the structure would be a substantial size. Moreover, its box like form would not be reflective of the sympathetically designed outbuilding that it would replace and its contemporary style would appear at odds with the traditional design aesthetic of the dwelling. The proposal would not be of a high quality of design for this reason, and given its scale and incongruous form, it would not appear a subordinate addition in this setting.

19. Matching materials with the existing building would not minimise either the scale of the development or the harmfully contrasting appearance of this form when viewed against the existing pitched form of the dwelling.
20. The harmful visual impact would be largely limited to within the property. While this may be acceptable to the existing occupants of the dwelling, I must consider the lifetime of the development. Limited views should not be a justification for accepting poor design and this matter has not altered my findings for this reason.
21. In light of the above, I find that the proposal would have a harmful effect on the character and appearance of the area. In this regard the proposal would be contrary to Core Policy 37 of the Local Plan Part 1, Development Policy 4 of the Vale of White Horse Local Plan 2031 Part 2 Detailed Policies and Additional Sites and Policy DBC1 of the Neighbourhood Plan. These Policies collectively, amongst other matters, state that all proposal for new development will be required to be of a high quality design.
22. The proposal would also be inconsistent with guidance set out in the South Oxfordshire and Vale of White Horse Joint Design Guide and the Framework which seek well-designed places.

Other Considerations

23. Very special circumstances to justify inappropriate development 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.
24. The appellant has submitted information that indicates that persons with protected characteristics are or would be residing at this property and that the extension in living space would be necessary to address these and other family needs. I therefore have due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which, amongst other matters, sets out to advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not share it.
25. In this appeal, I have kept these interests at the forefront of my mind. The level of regard appropriate will depend on the importance of this decision for the lives of persons with the protected characteristic. The principle of proportionality therefore applies.
26. I have also had regard for the appellant's requirements that the proposal would seek to address. However, I have not been presented with substantive evidence that this harmful proposal is the only option open to the appellant,

and that a less harmful proposal could not be advanced that could address these needs.

27. Having regard to well-established planning policy aims insofar as restricting development in the Green Belt, a refusal of planning permission would be proportionate and necessary and for the reasons set out, the effect of dismissing the appeal would not have a disproportionate impact on those with protected characteristics currently residing at the appeal property or that may occupy the property in the future.
28. The proposal would result in additional living space which would address specific needs and I attach significant weight to this matter. However, as outlined above this benefit could be achieved through a less harmful form of development than the one presented in this appeal. Any benefit in respect of this matter is limited by this factor.
29. There would also be social benefits in respect of the occupants of the property and their support and contribution to the local area. There would be some economic benefit through the construction phase. However, any economic, social or environmental benefit would be limited given the scale of the development. Moreover, the Framework states that good design is a key aspect of sustainable development, and while the proposal would be an efficient use of land there would be harm to the prevailing character of the area. The proposal would not represent good design in this respect. The adverse impacts in this case would significantly and demonstrably outweigh the limited benefits identified above, when assessed against the policies in the Framework taken as a whole.
30. In any event, as outlined above, I find in this appeal that the application of policies in the Framework that protect areas or assets of particular importance, in this case Green Belt, provides a clear reason for refusing the development proposed. The presumption in favour of development as set out in the Framework therefore does not apply.
31. The Council state that the proposal would comprise a new dwelling and the appellant has drawn my attention to relevant Court Judgments on this matter. I have also had regard to the appellant's comment about reintegration of the annex with the main house. The proposal has been submitted as a building that would be used incidental to the primary use at the property, which is a residential planning unit. If the proposed building was used as a separate planning unit, this would amount to a change of use requiring planning permission. A condition limiting the use of the proposed building to an incidental use would therefore not be necessary. This aside, I have found this proposal would harm the openness of the Green Belt and the character of the area. This matter has not altered my findings.

Conclusion

32. I have found that this proposal would be inappropriate development in the Green Belt and would lead to a loss of openness to the Green Belt. These are matters that I attach substantial weight to. The proposal would also harm the character of the area. Balanced against these harms are other considerations discussed above, which at most carry limited weight. Even when considered together, these considerations do not clearly outweigh the harm to the Green Belt. As a result, the very special circumstances that are necessary to justify

the proposal do not exist. In respect of this matter, the proposal is therefore contrary to Core Policy 13 of the Local Plan Part 1, Policy DBC4 of the Neighbourhood Plan and the Framework.

33. Having regard to the development plan and other material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR