



# Appeal Decision

Site visit made on 9 October 2023

**by B Phillips BSc MSc MRTPI**

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

**Decision date: 19<sup>th</sup> October 2023**

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**Appeal Ref: APP/X0415/D/23/3314186**

**Trail End, Jasons Hill, Chesham, Buckinghamshire HP5 3QW**

- 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 Mrs Yvonne Kenner against the decision of Buckinghamshire Council - East Area (Chiltern).
  - The application Ref PL/22/3714/FA, dated 25 October 2022, was refused by notice dated 3 January 2023.
  - The development proposed is described as a 'front entrance porch, 2 storey side extension with associated single storey rear extension for the inclusion of a Granny annexe and detached double garage'.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The appeal site is located within an area of Green Belt. Accordingly, the main issues are:
  - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and relevant development plan policies;
  - the effect of the proposal on the openness of the Green Belt;
  - the effect of the proposal on the living conditions of the occupants of the property known as Shardon, with respect to outlook;
  - the effect of the development on biodiversity; and
  - if the development would be inappropriate, whether the harm to the Green Belt by way 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. The Framework states that the construction of new buildings is to be regarded as inappropriate development subject to the exceptions which are set out in paragraph 149. Part c) of this paragraph lists 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, as one such exception.

4. This is also set out in Policy GB2 of the Chiltern District Local Plan (1997, consolidated 2007 & 2011) (LP) which provides for the 'limited extension, alteration or replacement of existing dwellings' in accordance with various other policies, including GB12, which sets out that the Council will permit the extension of dwellings in areas such as the appeal site, defined by Policy GB4.
5. The Council set out that a previous planning permission<sup>1</sup> allowed for numerous extensions to what was previously a chalet bungalow. Whilst these plans are not before me, the appellant does not dispute the Council's assertion that the extensions added a first floor and doubled the floorspace of the original dwelling and I observed that that the existing property is now a substantial two storey dwelling.
6. I consider that the existing doubling of the original floorspace of the original property would be significant and would amount to a substantial increase in the form, bulk and overall scale and size of the original building.
7. The proposed extension would further add a two storey side extension, extending to the rear at two storey and ground floor level. On its own, this is substantial addition, extensively extending the ridge of the property and the width of the first floor frontage, and considerably extending the two storey element of the dwelling to the rear, adding sizeable bulk and massing to the east side elevation. The rear extension would also add significant floorspace to the property.
8. Neither 'disproportionate' nor 'limited extension' is defined in the Framework or Local Plan. However, it is clear that the scale of the existing additions has led to a substantial increase in the size of the original building and a further increase in size as proposed would result in an original building that would be engulfed by extensions.
9. Policy GB15 of the Local Plan sets out that ancillary outbuildings can be considered acceptable where the building is small in size and subordinate to the original dwelling. However, the policies most important for determining the application, covering development in the Green Belt are of some age (1997) and their provisions are not consistent with the guidance set out in the Framework. In accordance with paragraph 219 of the Framework I therefore attach more weight within my decision to Green Belt national policy and it is therefore appropriate and necessary to consider the appeal in relation to the Framework in this regard.
10. The list of exceptions set out in Framework paragraph 149 does not specifically refer to outbuildings. As set out above, part c) of Framework paragraph 149 also includes 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. It has been established<sup>2</sup> that whether a detached structure would amount to an extension of the existing building is a matter of fact and degree.
11. The proposed garage would be limited in scale when compared to the large main dwelling and would be located closely enough to be seen as a clear addition to the property. Therefore, I am satisfied that it can be viewed as an extension. However, as such, it would further add to the additional built form that would overwhelm the original building.

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<sup>1</sup> Application reference CH/2015/1214/FA

<sup>2</sup> Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe [2022] EWHC 2145

12. In light of the above I conclude that the further additions proposed would comprise a disproportionate addition over and above the size of the original building and would result in inappropriate development in the Green Belt, as described in LP Policy GB2 and paragraph 149 of the Framework.

### *Openness*

13. The proposal would substantially increase the footprint of the dwelling. The proposal would, given the extension of the ridge line and projection to the rear increase the massing and built form of the property at first floor level, particularly on its eastern side. Whilst the property is set back and obscured from Jasons Hill, the development would be visible from the neighbouring property to the east. Whilst not extending the property towards the open countryside, there would be therefore a visual impact upon openness in addition to the spatial impact that would result, and openness would be reduced.
14. In this regard, the Framework makes it clear that openness is an essential characteristic of the Green Belt.

### *Living conditions*

15. The proposal would result in a two storey side projection on the east elevation that would sit in close proximity to the boundary with the neighbour to the east, Shardon.
16. This neighbour has its access and driveway located adjacent to this boundary, with a detached garage sited on the boundary and tall hedging on the boundary. In addition, there is further screening offered by trees and shrubbery separating the driveway from the lawned garden area. The principal outlook from the rear of this neighbouring property and its garden is therefore mostly of vegetation.
17. As such, I am satisfied that the proposed eastern side elevation, set behind this screening, whilst substantially increased in scale and bulk, would not result in an overbearing impact on the outlook from the rear of the property or its garden. The proposal would be unlikely to make the rear facing rooms and garden of Shardon less pleasant to use as a result.
18. I therefore conclude that the proposal would not harm the living conditions of occupants of Shardon in respect of outlook. Accordingly, there is no conflict with LP Policies GC3 and H14 which, amongst other matters and in accordance with the Framework, seek to protect the amenities enjoyed by the occupants of existing adjoining and neighbouring properties.

### *Biodiversity*

19. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application, if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
20. Policy CS24 of the Core Strategy for Chiltern District (2011) (CS) sets out that the Council will work with its partners to protect and enhance legally protected species and all sites and networks of habitats of international, national,

regional or local importance for wildlife or geology. However, Circular 06/2005<sup>3</sup> states that surveys should only be required where there is a reasonable likelihood of species being present.

21. There is no evidence before me that the appeal site is designated in terms of its nature conservation value, nor that there are any nearby, or that there are records of protected species on the site or in the vicinity. Whilst neighboured by open countryside to the west, the site is otherwise surrounded by residential properties.
22. It is evident from the evidence set out above regarding the extension of the property, that the new roof form is very recent, and I observed that the roof was in good condition. As such, there are limited features which may provide a habitat for bats, having regard to the standing advice from Natural England. For these reasons and give the absence of any records or evidence to the contrary, I am satisfied that that there is no reasonable likelihood of bats being present.
23. As a protected species, bats are also afforded protection by other legislation should any be encountered during work on the site. Were I minded to allow the appeal, conditions securing some ecological enhancement measures would be appropriate.
24. As such, I find no conflict with the biodiversity protection and enhancement goals of CS Policy CS24 and the Framework. In addition, based on the evidence before me, I find that the development would not conflict with the general biodiversity protection goals of the Conservation of Habitats and Species Regulations 2017.

### **Other considerations**

25. The appellant points to the scale of neighbouring properties. This is not relevant for the consideration of openness, which as set out above, is assessed in relation to the original property.

### **Conclusion**

26. The proposal would constitute inappropriate development in the Green Belt and would reduce openness in this location. The Framework states that substantial weight should be given to any harm to the Green Belt. The other considerations do not clearly outweigh the harm in this case. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal is therefore contrary to LP Policies GB2 and GB12 and guidance contained in the Framework relating to Green Belts.
27. For the reasons given above I conclude that the appeal should be dismissed.

*B Phillips*

INSPECTOR

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<sup>3</sup> Circular 06/2005: Biodiversity and geological conservation - statutory obligations and their impact within the planning system