



Appeal Decision

Site visit made on 31 October 2023

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2023

Appeal Ref: APP/C3105/D/23/3315829

Attock House, Church Lane, Horton-Cum-Studley, Oxfordshire OX33 1AW

- 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 Dai David against the decision of Cherwell District Council.
 - The application Ref 22/02969/F, dated 27 September 2022, was refused by notice dated 23 November 2022.
 - The development proposed is ground floor extension to the rear with a green roof and roof light to facilitate an open-plan kitchen/dining area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt in terms of the current Framework and development plan policy.
 - ii) If the proposal would be inappropriate development 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

3. Policy ESD14 of the Cherwell Local Plan 2011-2031 Part 1 ('LP') specifies that - Development proposals within the Green Belt will be assessed in accordance with government guidance contained in the current Framework and National Planning Policy Guidance. Development within the Green Belt will only be permitted if it maintains the Green Belt's openness and does not conflict with the purposes of the Green Belt or harm its visual amenities.
4. Paragraph 149 of the current Framework, sets out certain exceptions for new buildings in the Green Belt and includes (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 current Framework defines 'Original building' as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
5. In its appraisal of the application the Council says that: 'As a general rule, an extension with a floorspace of greater than 50% of that of the original dwelling, is considered to be disproportionate.' However, it is unclear where this is derived from.

6. As such, neither national guidance nor local policy gives specific direction on how to come to a view as to what constitutes 'disproportionate additions' beyond a comparison between what is original and the extent of any additions. This requires an assessment as to whether the proposal would, when taken in combination with any previous additions to the original building, result in disproportionate additions in terms of size. As a result, an element of planning judgement is also involved in the decision-making process. In my view an assessment of size includes aspects such as floorspace, height and volume.
7. On the information available to me, the original building was approved in 1963 and has subsequently been extended to the sides and rear, including a two-storey side extension.
8. Moreover, based on my observations and information before me, the original building has already been extended close to the side boundaries of the plot. The proposed extension would extend across part of the rear of the building as extended and project off this by around 2-3m. Therefore, the proposal, together with the existing extensions would substantially increase the floor space of the original building. Indeed, it is not disputed that the cumulative effect of the appeal proposal, plus the previously built extensions to the original building would take the new floorspace to about 87% of the original floor area.
9. There would also have been an inevitable and considerable increase in volume associated with the existing extensions. In particular, given the scale of the two-storey extension relative to the original building. In addition to this, the proposed rear extension would also add just under 60m³.
10. On either of the above measures, it seems to me that a cumulative increase on such a scale would clearly be disproportionate to the original building.
11. Therefore, cumulatively, the extent of existing and proposed extensions would result in disproportionate additions over and above the size of the original building. Consequently, the proposal fails the size test and does not meet the exception under Paragraph 149 (c) of the current Framework.
12. For the above reasons, the proposal would result in inappropriate development in the Green Belt.
13. The current Framework, states that the essential characteristics of Green Belts are their openness and their permanence.
14. The increased footprint and volume as a result of the proposed rear extension would reduce the spatial openness of the Green Belt. However, this would be against the backdrop of the existing property and its substantial rear garden which is largely screened. Consequently, whilst there would be some reduction in openness having regard to the overall context of the appeal property, the proposal would only result in moderate harm to the openness of the Green Belt.

Other Considerations

15. The current Framework states that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

16. The appellants submissions show that a single storey rear extension with a floor area larger than what is proposed could be added to the rear of the original property under the provisions of Permitted Development in the event this appeal is dismissed. Should the appeal fail there is a reasonable prospect that such an extension could be built. Consequently, this represents a fallback position.
17. Even so, because the area of the fallback is separate from the proposal, the appellant could build here irrespective of my Decision. Moreover, if the appeal were allowed, there is no certainty that the appellant would not implement the fallback scheme. As such, given that the fallback could be constructed in addition to the proposal, this attracts limited weight.
18. I appreciate that Attock House occupies a large plot, but the question of proportionality relates to the size of the building, not the site. As such, I attach very limited weight to this.
19. As the development would be within the confines of a residential plot, it would not conflict with any of the purposes of the Green Belt. Nonetheless, this, along with the acceptable design of the proposed scheme, lack of any harm to the living conditions of neighbours and the lack of objections to the proposal are neutral factors in the overall balance.

Green Belt balance

20. Having regard to the development plan and national planning policy, the proposal comprises inappropriate development in the Green Belt. There would also be moderate harm arising from the proposal on the openness of the Green Belt.
21. The current Framework says that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight is given to any harm to the Green Belt.
22. Having taken account of all matters raised in support of the proposal, 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. As such, the proposal conflicts with Policy ESD14 of the LP and the Green Belt provisions of the current Framework.

Conclusion

23. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR