



Appeal Decision

Site visit made on 15 November 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2023

Appeal Ref: APP/C3105/D/23/3323654

12 Mill Close, Charlton On Otmoor, Kidlington OX5 2UE

- 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 J McAdam against the decision of Cherwell District Council.
 - The application Ref 23/00676/F, dated 14 March 2023, was refused by notice dated 9 May 2023.
 - The development proposed is remove rear conservatory and outbuilding. Remove concrete garage, timber shed and greenhouses. Construct new two storey side and rear extension, with lean-to single storey infill to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have used the address from the appeal form, which is consistent with the Council's decision notice, as this more accurately reflects the location of the appeal site.

Main Issues

3. The main issues are:
 - i. whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - ii. the effect of the proposed development on the openness of the Green Belt; and,
 - iii. 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 required to justify the proposal.

Reasons

Whether inappropriate development

4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. New development is deemed to be inappropriate unless it falls within one of the exceptions listed at paragraphs 149 and 150. Of relevance to this appeal paragraph 149(c) allows for 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

original building is defined as a building as it existed on 1 July 1948 or, if constructed after that date, as it was built originally.

5. Policy ESD14 of The Cherwell Local Plan 2011-2031 Part 1 (adopted 20 July 2015) (CLP) is broadly consistent with the aims of national policy. The CLP Policy ESD14 states that 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.
6. Whilst the Council refers to the appeal scheme representing greater than a 50 percent increase in the size of the original dwelling, I have not been referred to any specific criteria relevant to this within the CLP. In the absence of any specific criteria in this instance, what amounts to a 'disproportionate' extension requires the exercise of planning judgement, as a matter of fact and degree. Factors such as size, volume, prominence, and overall scale will be relevant.
7. The Council has stated that the proposal would result in an 87 percent increase in floor space from the original dwelling. The Council has explained that various existing outbuildings, a conservatory and side extension have not been included in the calculations because these are not original. However, the appellant disagrees with this finding stating that an outbuilding should be included as it was built as part of the original development. The appellant considers that the increase would be 74.7 percent.
8. Regardless of the numerical values, it is evident that the appeal scheme would result in a significantly larger dwelling than the original. Furthermore, the addition of a two-storey extension to the side and rear of the property would substantially increase the bulk and massing of the building.
9. Even though the appellant considers that the proposal is well-designed and appropriately scaled, the increase in volume of development to the side and rear of the property would be excessive in the context of Green Belt policy. The appeal scheme would result in a dwelling which is disproportionate in size compared to the original building. It would therefore not fall under the exception in paragraph 149 of the Framework, relating to the extension or alteration of a building, and would be inappropriate development within the Green Belt.
10. The proposed inappropriate development would be harmful to the Green Belt which, in accordance with paragraph 148 of the Framework, should be given substantial weight. Accordingly, there would also be conflict with Policy ESD14 of the CLP as detailed above.

Openness

11. The proposed development would create an extended dwelling which would be larger than the existing building. Although it would replace existing outbuildings and a conservatory, the appeal scheme would nevertheless have a spatial impact on openness of the Green Belt due to the increase in its volume and bulk. In addition, although the rear of the property is relatively well screened, the two-storey side extension would be visible from the road, thereby eroding the visual openness of the site. Therefore, there would be both an adverse spatial and visual impact on the openness of the Green Belt from the proposed development, in that it would be reduced, albeit this would be

limited given the scale of the proposal. This factor weighs somewhat against the proposal.

Other considerations

12. The Framework states that inappropriate development should not be approved except in very special circumstances, and that 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.
13. The evidence refers to potential alternative options in the form of extensions to the property that could be erected by exercising permitted development rights or a combination of permitted development rights and a subsequent grant of specific planning permission for an extension. To be afforded any weight, there must be a real prospect of a fallback position being implemented, i.e. there must be a greater than theoretical possibility that the fallback would take place. Despite the submissions, no compelling evidence has been provided to indicate the likelihood of the appellant carrying out such works should the appeal not be successful. Furthermore, in the absence of any confirmation that planning permission or a certificate of lawful development has been granted for any of the works, the possibility of development being undertaken in accordance with permitted development rights or another planning permission would only attract limited weight in support of the proposal.
14. The fact that the site is not within a conservation area or a listed building is of little significance in terms of the main issues in this case. Even if the proposal would not diminish the availability of off-street parking, access or harm the living conditions of the occupiers of neighbouring dwellings, these are neutral considerations that do not weigh in favour of the proposal.
15. The proposal would provide enhanced accommodation that would be of a private benefit to the appellant. Whilst the site is not in the open countryside, there is no dispute that the site is within the Green Belt. The fact that the site is not in the open countryside has no bearing on the policy test relating to whether it is inappropriate development.
16. It is suggested that the design would adhere to the householder design guide and would eliminate an unsightly group of buildings, as well as create a better form of development, complementary to the Green Belt. Whilst I accept that the proposal would remove existing buildings which are unappealing, the proposal would be disproportionate in light of the excessive increase in volume and visual bulk. The fact that the proposed development is attached to the host dwelling and is not a stand-alone structure has had no particular bearing on my decision as it has been assessed as an extension rather than a new building in the context of the current Green Belt policies.
17. The appellant has drawn my attention to the surrounding context, highlighting that some nearby properties feature similar extensions, including 2 Church View. Whilst I acknowledge that other properties feature side and rear extensions. I have not been provided with any details of the assessment of inappropriateness required by paragraph 149 of the Framework. In this context, I am mindful that each case must be determined on its own merits, and it has been concluded that the appeal proposal would represent inappropriate development within the Green Belt, as set out in this decision. I

do not therefore attach any significant weight to the potential for the setting of a previous precedent for development.

The Green Belt Balance and Conclusion

18. The proposal is inappropriate development in the Green Belt and the Framework requires substantial weight to be attached to this harm. On the evidence available, it would also lead to a loss of openness to the Green Belt. The other considerations cited do not, even when considered together, clearly outweigh the harm arising from inappropriateness. The very special circumstances necessary to justify inappropriate development in the Green Belt therefore do not exist.
19. The proposal conflicts with the development plan and the Framework, when considered as a whole, and there are no other material considerations identified that outweigh this finding. For the reasons given above I conclude that the appeal should be dismissed.

J White

INSPECTOR