



Appeal Decision

Site visit made on 31 May 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 June 2024

Appeal Ref: APP/K0425/D/23/3333508

**Holly Tree House, Burford Close, Marlow Bottom,
Buckinghamshire SL7 3NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mulraine against the decision of Buckinghamshire Council-West Area (Wycombe).
 - The application Ref is 23/06868/FUL.
 - The development proposed is described as 'remove small porch area and extend the building'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt, and;
 - 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

3. The Framework, at paragraph 142 identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate development, but lists exceptions in paragraph 154. One such exception is 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.
4. Policy CP8 of the Wycombe District Local Plan 2019 (the LP) states that the Council will, among other things, protect the Green Belt from inappropriate development. Policy DM43 of the LP relates specifically to proposals including

the extension of a dwelling in the Green Belt and states that such development will only be appropriate when it satisfies one of the criteria given. This includes, e) where the volume of the original dwelling is between 240 and 720 cubic metres, the total volume of the resulting building is no more than the volume of the original building plus 50%.

5. The Council assert that the property was built in 1973 and had an original volume of approximately 521m³. It has since been extended in various forms including single storey extensions and a two-storey side extension. When considered alongside these previous additions, the Council assert that the appeal scheme would result in an increase of 95% above the original volume of the property, which is a very substantial increase and far exceeds the 50% allowance set out in the policy. The appellant does not dispute these figures and consequently the proposal would not comply with criteria e) of Policy DM43 set out above. Neither would the proposal meet any of the other criteria and it would therefore conflict with Policy DM43 overall.
6. I appreciate that the proposal entails only a modest uplift from the existing situation, which the appellant reports to be a 7% increase in volume across the whole site. While the uplift in volume from the existing could not be considered significant, the proposal would nonetheless conflict with Policy DM43 and would result in disproportionate additions over and above the size of the original building. As a consequence, the proposal would be inappropriate development in the Green Belt as defined by the development plan and the Framework.

Openness

7. The courts have established that the openness of the Green Belt has a spatial aspect as well as a visual aspect¹. Therefore the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt.
8. The openness of the surrounding area is derived from the more sporadic forms of development together with the larger and more open plots at this western end of Burford Close, which include grassland enclosed by hedgerows and tree belts. The visual effects on openness arising from the proposal would be very limited as the property is set back from the road and heavily enclosed by mature trees including conifers. The proposal would, however, decrease the spatial aspect of the site's openness through increasing the size of the property and the extent of built form on the site. As such the proposal would cause some harm to the spatial aspects of the Green Belt's openness and would conflict with the Green Belt purpose to assist in safeguarding the countryside from encroachment, although the degree of this harm is limited given the extent of the proposed increase.

Other Considerations

9. The Framework makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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.

¹ Turner v SSCLG & East Dorset Council [2016] EWCA Civ 466

10. The appellant has presented a 'fallback' scheme as an alternative should the appeal scheme not be accepted. This entails exercising permitted development rights to construct an extension in the same position, but brought in at one side so not to extend from an existing extension. It is not the role of an Inspector dealing solely with an appeal for planning permission to decide whether the appellant could rely on permitted development rights, as this is best determined by a lawful development certificate application. However, based on the evidence, I have concerns as to whether there is a real prospect of that fallback development otherwise being implemented.
11. While the building may have originally been accessed from its northern side, this has clearly been subject to change. Given the nature of the access to the property now, together with the presence of substantial retaining walls close to the west facing elevation, it cannot be established that the fallback scheme would not entail an extension to a principal or a side elevation, in which case it is unlikely to be permitted development. As such there is significant doubt as to whether there is a real prospect of these works being undertaken and this fallback scheme is afforded little weight. In any event, even if the fallback scheme were permitted development, it would be narrower than the appeal extension and therefore entail slightly less volume and would be less harmful.
12. The appellant goes on to state that if the fallback position were found to entail an extension to the principal elevation, then further extensions could be added to the opposite elevation using permitted development rights while also retaining the conservatories. I similarly have reservations as to the likelihood of this position, given the ground levels at the back of the property, its enclosure by retaining walls, as well as existing extensions on that elevation. It is not possible to conclude with any certainty that an extension to the west facing elevation would be permitted development and that potential fallback position is also given little weight.
13. The proposal would deliver environmental benefits through replacing the existing heavily glazed conservatories with a more insulated extension. While this is an important benefit, it is not apparent that this proposal, and the associated Green Belt harm which would arise, are necessary to achieve this benefit. There would arguably be some visual improvement through tidying and simplifying this elevation and the quality of accommodation would be improved, although given the absence of evidence of harm arising from the existing situation these matters attract limited weight.
14. The proposal would create some economic benefit arising from the construction process and possible increases in Council tax payments generated by the property. The extent of these benefits would however be very limited by the scale and nature of the proposal.
15. Where the proposal has been found to be acceptable in other respects, including in terms of ecology and impacts on the living conditions of neighbouring occupiers, these matters are neutral and do not weigh in favour of the development. Absence of public objection or objection from consultees does similarly not add weight in favour of the appeal scheme.
16. Overall, while there would be some small scale benefits arising from the proposal, together these would not clearly outweigh the harm identified to the Green Belt, to which I must give substantial weight. As a consequence, the very special circumstances necessary to justify the development do not exist.

Conclusion

17. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, the appeal is dismissed.

C Shearing

INSPECTOR