

Appeal Decision

Site visit made on 11 September 2024

by N Kempton BAHons, PGDip, MA, IHBC, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2024

Appeal Ref: APP/W4223/W/24/3343164

Hawthorn Cottage, Kiln Green, Diggle, Oldham OL3 5LA

- 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 E Broadbent against the decision of Oldham Metropolitan Borough Council.
 - The application Ref is FUL/347828/21.
 - The development proposed is described as a rear extension (conservatory) to dwellinghouse and extension to curtilage.
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Decision

1. The appeal is allowed and planning permission is granted for a rear extension (conservatory) to the dwellinghouse and change of use of land to garden at Hawthorn Cottage, Kiln Green, Diggle, Oldham OL3 5LA in accordance with the terms of the application, Ref FUL/347828/21, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan titled Proposed Curtilage 2;
Elevations ref: 7T2 dated Aug 2021 Rev Feb 2023;
Plans ref: 7N dated Nov 2022 Rev Jan 2023.
- 3) The external materials of the extension hereby permitted shall match those used in the existing dwelling.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting this Order) no building, structure, extension, or enlargement permitted by Class E of Part 1 of Schedule 2 of the 2015 Order (as amended), shall be carried out within the curtilage of the dwelling hereby permitted.

Preliminary Matters

2. The description of proposed works is taken from the application form. This differs from the Council's wording on the decision notice. I have adjusted the wording to clarify the change of use to garden, in the interests of clarity.

Main Issues

3. The main issues are:

- Whether the proposed development would be inappropriate development in the Green Belt, having regard to the development plan and the National Planning Policy Framework (the Framework);
- If the proposed development is inappropriate, the effect on the openness of the Green Belt; and
- If the proposed development is inappropriate, 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 the developments.

Reasons

Inappropriate development

4. The appeal site lies in the Green Belt where policy 22 of the Oldham Local Plan 2023 (LP) applies. This policy aligns with national Green Belt policies. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and that the essential characteristics of Green Belts are their openness and their permanence. It indicates that the construction of new buildings should be regarded as inappropriate development in the Green Belt. The Framework sets out a number of exceptions to this in paragraph 154.
5. The Council considers the exception most relevant to this case is part (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.
6. The proposed single storey extension would extend the host property to the rear, creating additional living accommodation identified as a conservatory. Based on the evidence before me, I note that a previous Inspector established that the host dwelling had been disproportionately extended relative to the original building/ This was to enable the original conversion to residential use and subsequent extensions- owing to that fact that it was determined that 'very special circumstances' existed. I cannot but conclude, therefore, that the effect of this proposed extension, in combination with the previous additions to the original building, would amount to a disproportionate addition over and above the size of the original building. As such, the proposed development does not meet exception (c).

Limited infilling in villages

7. Notwithstanding the above, I move to consider exception part (e) limited infilling in villages, as advanced by the appellant. In the absence of a definition in the Framework, or indeed LP policy 22, as to what constitutes 'limited infilling', a previous Inspector determined that development of land that is surrounded by existing development on at least 2 sides within reasonable proximity to be 'infilling'. To establish whether the infill is 'limited', the same Inspector considered both the development site and the scale and form of the proposed development and determined that a modest, single storey rear extension constituted limited infilling in a village.
8. The host dwelling is situated within a loose cluster of buildings set in generous gardens and interspersed with open spaces, which transition to the wider landscape beyond the confines of the settlement. The proposed single storey rear extension is modest in scale and traditional in form and would be viewed in context with both the host dwelling and the surrounding buildings. For these reasons, I concur with the previous Inspector's assessment, and I have determined that the proposal would amount to development constituting limited infilling within a village, it would not contribute to urban sprawl or encroach into the Green Belt.

Domestic Curtilage

9. The change of use relates to land within the curtilage of the host dwelling, which is situated within the confines of the settlement. The land is enclosed on all sides by established boundary treatments, as is characteristic of the village, and bordered by neighbouring gardens. Although this land is open and integrates with the surrounding landscape due to the absence of buildings or visual intrusion, it has been cultivated and maintained, and essentially functions as a domestic garden. The character and appearance of this land is domestic, as distinct from open countryside.
10. Material changes in the use of land are included in the list of exceptions at paragraph 155 of the Framework that are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Exception (e) relates to changes of use such as for outdoor sport or recreation, or for cemeteries and burial grounds. The use of the land for domestic curtilage would be similar in nature and type of use compared with those identified in (e), provided that the openness of the Green Belt is preserved. This could be addressed in a related condition, which removes permitted development rights.

Other Matters

11. As the proposal is in a conservation area (CA), I have had regard to the statutory duty set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas Act 1990 (the Act), which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
12. The appeal site is located within the Diggle CA. The property is situated in a prominent position at the junction of Station Road, crossing the railway line, with Lee Side, which runs from Kiln Green towards the bottom of the hill up to

Diglea, which lies above it. The Pennine Bridleway crosses in front of the appeal site. The settlement reflects both the rural and industrial heritage of the area, comprising a cluster of traditional stone-built houses, farm buildings and cottages. Boundary treatments are mostly stone walls.

13. The landscape character of the CA is notable with green, open spaces within the settlement abutting the open fields and rising moorland of the surrounding countryside. This setting affords scenic views and rural tranquillity.
14. The Framework describes heritage assets as an irreplaceable resource, that should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. It advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
15. The proposed extension would be single storey and extend from the rear elevation of the host dwelling. The ground level to the side and rear of the dwelling rises, such that the extension would not be readily visible from the public realm. The Council considers the extension to have been designed to be in keeping with the host dwelling, and I concur.
16. The change of use of the land to domestic curtilage would largely be obscured from wider public vantage points by reasons of topography and vegetation- both within the appeal site and beyond the site boundaries. As the land in question would be at the far end of the garden and given that I propose to remove permitted development rights, there would appear to be limited focus for changes in activity that would affect the character of the CA.
17. For the reasons above, I have found that the proposed development would not be detrimental to the CA and would preserve its significance.

Conditions

18. In addition to the statutory time condition (1), which is required to ensure compliance with Section 91 of the Town and Country Planning Act 1990, a condition listing the approved plans (2) is needed to ensure clarity of what has been permitted. Condition (3) refers to materials to be used in the external finishes of the development and is warranted to secure an appropriate palette, in the interests of the appearance of the development and the visual amenities of the area.
19. While the Planning Practice Guidance advises that conditions limiting permitted development rights should only be used in exceptional circumstances, to ensure that the garden space within the extended domestic curtilage remains open and will not be built upon, it is necessary to remove permitted development rights under Class E. Condition (4) would bring development within the curtilage of the dwelling under planning control and so ensure the change of use does not adversely affect the openness of the Green Belt.

Conclusion

20. I have found that the proposed development would not amount to inappropriate development in the Green Belt because it would constitute

limited infilling within a village. I have found that the change of use of the land to domestic curtilage would not be inappropriate in the Green Belt, it would preserve the openness of the Green Belt and not conflict with the purposes of including the land within it. As such, exceptions to the Framework's requirement that development should be considered as inappropriate in the Green Belt, have been established. It follows, therefore, that no assessment of whether very special circumstances exist is necessary.

21. I have found that the proposed development would not be detrimental to the CA and would preserve its significance.
22. There would be no conflict with the development plan when read as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Indeed, the Framework indicates that development proposals that accord with an up-to-date development plan should be approved without delay.
23. For the reasons given above, I conclude that the appeal should be allowed.

N Kempton

INSPECTOR