Planning Inspectorate

# Appeal Decision

Site visit made on 10 February 2025

**by David Smith BA(Hons) DMS MRTPI**

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

**Decision date: 14 February 2025**

**Appeal Ref: APP/T0355/D/24/3345958**
**Oakley Cottage, Oakley Green Road, Windsor, SL4 4QF**

- 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 Abdul Sattar against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
- The application Ref is 24/00107.
- The development proposed is described as “retention of roof extension and alterations to existing garage.”

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. By letter dated 9 January 2025 the Planning Inspectorate confirmed that the appellant’s late application for costs would not be accepted.

## Main Issues

3. The works to extend and alter the garage building have been undertaken. The main issues are:

   - Whether these works are inappropriate development in the Green Belt having regard to national and local policy;
   - If so, whether other considerations clearly outweigh the harm to the Green Belt and any other harm so as to amount to very special circumstances.

## Reasons

4. Policy QP5 of the Royal Borough of Windsor and Maidenhead Borough Local Plan confirms that national Green Belt policy will be applied to the rural areas. The National Planning Policy Framework provides that development in the Green Belt is inappropriate unless one of the specified exceptions applies. One of these refers to the extension or alteration of a building.

5. The garage building is about 4m from the side of the dwelling. Having regard to its proximity and function and the judgment in *Warwick DC v SSLUHC, Mr J Storer & Mrs A Lowe* [2022] EWHC 2145 (Admin) it is reasonable to treat the works undertaken as an extension to the dwelling as a whole.

6. The appellant gives an overall floorspace figure for the dwelling of 2,046 sq m. However, this includes a stable building which should be discounted as it is not a normal domestic adjunct and is separate from the house. Furthermore, the

Framework refers to whether the proposal results in a disproportionate addition over and above the size of the *original* [my emphasis] building. The Council explains that the dwelling has been extended following permissions in 1979 (two stories – 68 sq m) and 2001 (conservatory – 25 sq m). It indicates that the original floor area was 187 sq m and so the dwelling itself has already been extended by 50%. These figures for the current area of the house more or less tally with the floor plan provided by the appellant.

7. There is nothing to indicate that either the previous garage building and wine store (72 sq m) or the pool house (114 sq m) to the west of the dwelling were part of the original building. In this respect, the Glossary to the Framework at Annex 2 confirms that this is the building as it existed on 1 July 1948 or as originally constructed, if built after that date.

8. Using the appellant's figures, the proposal includes an extension to the rear of the garage of 19 sq m and a usable first floor area of 39 sq m. Even omitting the pool house building from the calculation, there has been an overall increase in floor area of 223 sq m (including the entire garage) which is more than double the size of the original building. Floor area is not the only way to assess the cumulative size of additions relative to the original building. However, in this case it provides a clear indication that the development carried out over the years, including the proposal, comprise disproportionate additions.

9. When judged in percentage terms the proposal amounts to an 80% increase in floorspace compared to the original garage. As this includes an internal office area relying on this calculation is slightly misleading. However, having regard to the increase in visual bulk brought about by the re-configuration of the roof and the addition of dormers, the proposal cannot be described as proportionate to the original building. Therefore, even when assessed using the previous garage as the starting point, the outcome is also that the works are disproportionate.

10. The exception specified in paragraph 154 c) of the Framework makes no mention of Green Belt openness or the five purposes listed in paragraph 143. They are therefore not relevant when undertaking this exercise. The judgment in *R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant)* [2020] UKSC 3 was concerned with the meaning of openness and therefore does not assist in deciding whether the development undertaken is disproportionate or not.

11. The appellant draws attention to the Ministerial statement of July 2024 and the draft text of the Framework issued at the same time. The Framework was updated in December 2024 and incorporates changes to Green Belt policy in respect of previously developed land and grey belt which the appellant refers to as a "new direction of travel".

12. As part of these changes paragraph 154 g) has been revised. Even if the site is previously developed land, the proposal does not involve partial or complete redevelopment. Similarly, paragraph 155 refers to development that utilises grey belt land. However, it is not obvious that the development is in a sustainable location or that there is a demonstrable unmet need for development of this type. Therefore, neither of these exceptions applies.

13. The appellant refers to two cases in Windsor and Maidenhead from 2012 but the assessments made in them would have been on the basis of the facts and

circumstances in those appeals. The decision from Hertfordshire in 2010 was in respect of a lawful development certificate where the issues were entirely different. The appeal allowed last year at Spencer's Farm for up to 330 dwellings is not for a comparable form of development. These decisions and that decided by the Council in 2024 therefore have no real bearing on this one.

14. Whether or not the Council has an adequate housing land supply is not significant because the proposal does not involve the provision of housing. In addition, any review of Green Belt boundaries should be undertaken through the preparation or updating of plans.

15. The finding in this appeal, based on the evidence and information provided, is that the proposal has resulted in a disproportionate addition to the size of the original building. It therefore amounts to inappropriate development. This conclusion is not altered by the recent changes to the Framework or the caselaw or other appeal decisions referred to. Nevertheless, the effect on the overall openness of the Green Belt is very limited given its relatively small increase in size and the consequent visual implications.

*Other considerations*

16. The officer report acknowledges that the proposal causes no other harms and does not breach relevant policies unrelated to the Green Belt. However, the absence of objection in other respects is not a positive factor that weighs in favour.

17. The appellant is the managing director of a specialist care organisation which provides supported housing for vulnerable adults with complex needs. When the pandemic struck in 2020 the company had around 500 patients or clients and around 1,000 staff. There was a need to maintain continuity of care in a very challenging situation. Given his role the appellant needed to create desk space for himself and his PA to facilitate home working and to hold meetings with senior managers. This area needed to be kept separate from his family accommodation in order to minimise the risk of spreading the infection. The work to create a home office above the existing garage was undertaken in mid-2020.

18. Whilst tragically there were some fatalities from Covid, the company had a vastly superior record to the national average in the health care sector. The appellant believes that his isolated workspace avoided the number of deaths from being higher although there is no specific evidence as to his role in this respect or why meetings could not be conducted online. Nevertheless, he claims that the creation of an emergency home office saved lives during that time which is clearly a highly significant consideration.

19. It is understandable that the appellant wished to have a working area away from his domestic accommodation. However, it is not explained why the preferred solution was to build above the garage rather than, say, the construction of a separate outbuilding within the extensive grounds of the property. That said, it was a time of national crisis when actions had to be taken quickly to try and protect people from the effects of a contagious disease. Although that extremely perilous situation has passed the enlarged garage remains. However, the rationale for undertaking the works is largely persuasive and attracts substantial weight in support of the proposal.

### Final balance

20. The proposal would be inappropriate development within the Green Belt. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt. There is also a very limited reduction in openness. The need to undertake the works to respond rapidly to the national crisis which arose in 2020 and to protect employees and those cared for by the appellant's company is also a matter of substantial weight.

21. There are therefore powerful forces on both sides. However, the Government attaches great importance to Green Belts. Furthermore, in order for very special circumstances to exist the other considerations need to *clearly outweigh* [my emphasis] the totality of harm. The essential health care work facilitated by the proposal does not cross that high threshold and so there are not very special circumstances which justify accepting the proposal. As a result of this finding, there is also conflict with Policy QP5 and the development plan as a whole and there are no material considerations to the contrary.

### Conclusion

22. Therefore, for the reasons given, the appeal should not succeed.

*David Smith*

INSPECTOR