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SOUTH BUCKS
District Council

Planning Committee (SBDC)

Wednesday, 10 January 2018 at 4.15 pm

Council Chamber, Capswood, Oxford Road, Denham

SUPPLEMENTARY AGENDA

Item 4 -Applications and Plans

B. Committee decision required without a site visit or public speaking

17/01949/FUL- 14 Wooburn Green Lane, Holtspur, Beaconsfield, Buckinghamshire, HP9 1XE (Pages 3 - 10)

Appendix (Pages 11 - 24)

Note: All reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: **Planning Committee (SBDC)**

Councillors:
R Bagge (Chairman)
J Jordan (Vice-chairman)
D Anthony
M Bezzant
S Chhokar
T Egleton
B Gibbs
P Hogan
M Lewis
Dr W Matthews
G Sandy
D Smith

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Date of next meeting – Wednesday, 31 January 2018

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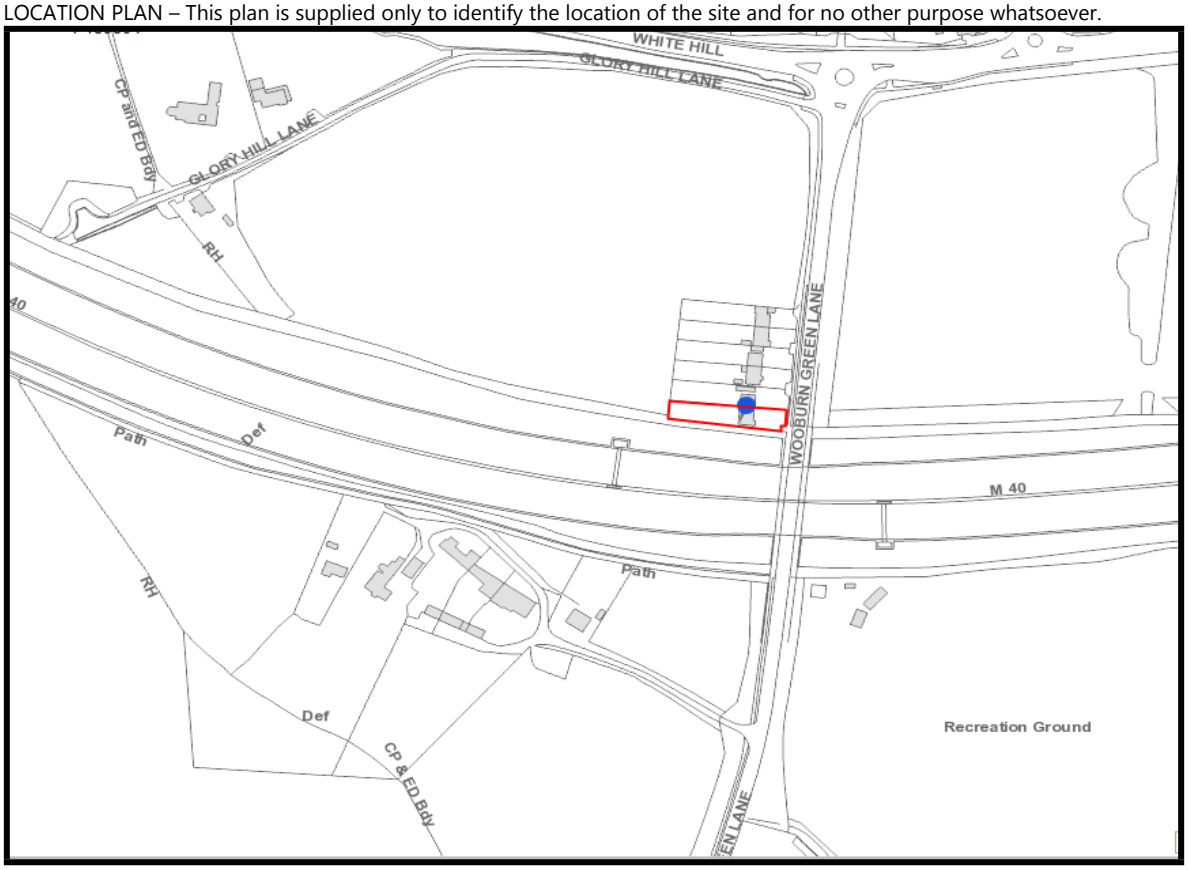
PART B

South Bucks District Council
Planning Committee

Date of Meeting: 10 January 2018 **Town Council:** Beaconsfield Town Council

Reference No:	17/01949/FUL	Full Application
Proposal:	Front porch, two storey side extension and part two storey / part single storey rear extension. (Retrospective).	
Location:	14 Wooburn Green Lane, Holtspur, Beaconsfield, Buckinghamshire, HP9 1XE	
Applicant:	Mr Iqbal	
Date Valid Appl Recd:	13th October 2017	
Recommendation:	REF	

LOCATION PLAN – This plan is supplied only to identify the location of the site and for no other purpose whatsoever.



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SCALE : NOT TO SCALE

THE PROPOSAL:

This is a retrospective application for a front porch, two storey side extension and part two storey / part single storey rear extension.

The application is identical to 14/00764/FUL save for the addition of the front porch, but is the same development which is the subject of an extant enforcement notice. Enforcement Notice Ref. SB000216, was issued on 27 April 2016. The Notice was upheld at appeal on 12 December 2016 and remains to be complied with.

THIS APPLICATION IS BEING REPORTED TO THE PLANNING COMMITTEE DUE TO THE PLANNING HISTORY OF THE SITE AND THE EXTANT ENFORCEMENT NOTICE.

The applicant has now appealed the non-determination of this application. Accordingly the Council are no longer able to make a decision on this application.

This application is brought to Committee as an urgent item in view of the need to inform the Council's case to present to the Planning Inspectorate.

The Committee are therefore requested to consider the application and advise what their decision would have been in order to allow Officers to prepare a case for the Appeal.

LOCATION AND DESCRIPTION OF SITE:

The application site comprises a semi-detached two storey dwelling located on the west side of Wooburn Green Lane at the end of a small row of dwellings. The application site is located within the Metropolitan Green Belt. The M40 is located to the immediate south of the application site.

The dwelling at the application site has been extended without the benefit of planning permission.

RELEVANT PLANNING HISTORY:

There is an extensive planning history at this site with 16 applications having been submitted since 2014, the most relevant of which is summarised as follows:

17/01570/FUL: Porch, two storey front and side extension, single storey rear extension and loft conversion with Juliette balconies. Appeal Lodged against non-determination, pending consideration.

This application was originally reported to the Planning Committee meeting on 4 October 2017, but deferred due to the lack of availability of plans and as such was reported to the committee meeting on 1 November 2017. The Council were notified prior to that meeting that the applicant had appealed the non-determination of the application.

The Committee RESOLVED that had the applicant not appealed against the non-determination of the application the Committee would have been minded to refuse the planning application on the grounds of (i) the building being out of character with the street scene (ii) poor design and (iii) the extent of extension in a green belt area. Members specifically mentioned that there was a two-storey extension proposed to the front of the dwelling that, in their view, would render the proposals more obtrusive and harmful to the Green Belt.

17/01569/FUL: Porch; Single storey front and side extension; Part two-storey, part single storey rear extension; hip-to-gable roof extension and rear dormer.

Appeal Lodged against non-determination.

This application was also reported to Planning Committee on 1November 2017.
The Committee RESOLVED that application 17/01569/FUL be delegated to the Director of Services to approve the application subject to
(i) the imposition of appropriate conditions
and/or (ii) the prior completion of a satisfactory S106 planning obligation relating to the removal of permitted development rights and the prevention of the implementation of other planning permissions. Or, if agreement cannot be reached then the application be refused for such reasons as considered appropriate.

As the applicant had exercise his right to appeal before a legal agreement was drafted and decision issued, no decision has been issued.

The Council has now been advised by the Planning Inspectorate that the applicants appeal against non-determination is NOT VALID as the appeal had been lodged out of time. (Where there is an extant enforcement notice relating to the development or similar development, an appeal must be lodged within 28 days of the statutory determination date)

17/00064/FUL: Porch with double storey side and part double storey part single storey rear extension. The application was in part retrospective and sought permission to retain some extensions but proposed to remove the unauthorised first floor/roof parts of the front and rear extensions and add a new first floor rear extension. Refused on Green Belt grounds.
Appeal Allowed. The Inspector concluded that whilst the proposed extensions would result in a more bulky building than the original house, in the context of the line of dwelling and with much of the rear hidden the impact on openness would be small with limited harm. He therefore allowed the appeal subject to a planning obligation (legal agreement) to prevent any further enlargements in order to protect the openness of the Green Belt.
This permission would only override the terms of the enforcement notice to the extent that permission has been granted for the works the subject of the application.

The Council has now challenged the appeal decision on the basis that the drafting of the legal agreement submitted by the appellant and accepted by the Inspector does not secure the protection that the Inspector envisaged.

15/02135/FUL: Front porch, single storey side extension, part single storey / part two-storey rear extension, rear dormer.

Approved by Planning Committee on 13.01.2016 on the basis that it was similar to what could be constructed on site under permitted development rights.

This scheme is significantly different from what has been constructed on site

and the subject of Enforcement Notice Ref. SB000216. Notably it does not include any first floor or two-storey extensions south of the original southern elevation of the dwelling but does include a rear dormer.

15/01307/GPDE: Notification under The Town and Country Planning (General Permitted Development) Order 2015, Part 1 of Schedule 2, Class A for a single storey rear extension.
Prior Approval for 6m deep rear extension granted by decision letter dated 06.08.2015.

Enforcement Notice Ref. SB000216, was issued on 27 April 2016 as notwithstanding the the refusal of application14/00764/FUL works were undertaken to implement a very similar form of development.

The Enforcement Notice required the unauthorised works to be removed. A period of compliance of 6 months.

An appeal was lodged against the enforcement notice. The appeal was dismissed on 15 November 2016, the Inspector upheld the enforcement notice with the period of compliance amended to 12 months and planning permission refused.
A copy of the appeal decision is appended to this report

14/00764/FUL: Part first floor / part two-storey / part single storey side / rear extension. Received 16.04.2014. Refused under delegated authority on 11.06.2014 as being inappropriate development in the Green Belt and an unacceptable precedent.
At the time of the officer's site visit in 2014 no work had commenced.

BE/172/70: New attached garage and utility room at No.14, Wooburn Green Lane. Approved in September 1970. Constructed. Then demolished in 2014 to make way for the new extensions that are the subject of the current enforcement notice.

REPRESENTATIONS AND CONSULTATIONS:

Town Council Comments

The Committee wished to continue to object to this latest application as it was still considered to be an over-development of the plot and an intrusion into the Green Belt.

CORRESPONDENCE:

Representation has been received from five separate properties raising a number of issues, the most relevant of the objections are summarised as follows:

- The application description does not match the drawings;
- This scheme has been refused on numerous occasions;
- Proposals continue to breach Green Belt policies;
- The application is retrospective and the scheme is subject to an enforcement notice.

SPECIALIST ADVICE:

None sought

ISSUES AND POLICY CONSIDERATIONS:

RELEVANT POLICY

National Policy
National Planning Policy Framework
National Planning Policy Guidance

Development Plan

South Bucks Local Development Framework Core Strategy (adopted February 2011) CP8, CP9 and CP12.
South Bucks District Local Plan (adopted March 1999) (Saved policies) GB1, GB10, EP3, EP4, EP5, H11 and TR7.

Other material considerations:

Residential Design Guide SPD
Guidance Note:
Interim Guidance on Residential Parking Standards

1.0 KEY POLICY ASSESSMENT:

1.1 The NPPF was published on 27th March 2012 and whilst this replaced the previous Planning Policy Statements and Guidance Notes, it does not replace existing local policies that form part of the development plan. It does state, however, that the weight that should be given to these existing local policies and plans will be dependent on their degree of consistency with the NPPF. Therefore, the closer the policies in the development plan to the policies in the Framework, the greater the weight that may be given to them. With regard to this specific application, it is considered that most of the relevant local policies as highlighted above, are in accordance with the NPPF, and as such, it is considered appropriate to still assess this current application against the relevant local policies set out above.

1.2 The NPPF states that the extension or alteration of a building will not be inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building. Policies GB1 and GB10 refer to development in the Green Belt, Policy GB10 says that extensions will normally be permitted subject to a number of criterion including that any extension together with any earlier extension would be small in scale in relation to the size of the orginal dwelling. This is considered to be broadly consistence with the NPPF, accepting where there is a difference or conflict in policy then the NPPF takes precedence.

2.0 Green Belt:

2.1 The current scheme is identical to the application submitted under reference 14/00764/FUL. This previous application was refused planning permission on Green Belt grounds. There have been no changes to adopted planning policies since that decision which would alter the assessment of the application. The house has been extended with two storey additions at the front, side and rear of the house, together with ground floor extensions to the front and rear, which are considerably in excess of the 50 % guideline figure referred to in the explanatory text to Policy GB10.

2.2 Whilst an appeal was not lodged against the decision issued for application 14/00764/FUL, an

appeal was lodged against an enforcement notice issued for the removal of these extensions. In considering this appeal the Inspector concluded:

2.3 *'Clearly, in the context of the Green Belt as a whole the effect of the development is relatively small. Nonetheless, policy GB10 of the Local Plan sets out the rationale for controlling the size of extensions based on the potential cumulative impact that would result if the scale of residential extensions was not controlled. That rationale is clearly embedded in the Framework which seeks to ensure that extensions are of a proportionate scale to the original dwelling. Therefore, the fact that the impact is localised does not represent a positive factor in favour of the development. The loss of openness represents harm to the Green Belt and I attach weight to that harm accordingly.'*

2.4 With regards to the applicant's proposal for the removal of permitted development rights and the entering of a unilateral undertaking to support the retention of the extension as built, the Inspector determining the appeal lodged against the enforcement notice considered:

2.5 'There are no exceptional circumstances in this instance that would justify the removal of permitted development rights and the removal of such rights would not alter the conclusion that the extension would be a disproportionate addition to the original dwelling thereby representing inappropriate development within the Green Belt.

2.6 *Nor am I satisfied that the potential 'fall-back' of extensions to the dwelling that could be constructed under the permitted development regime would be more harmful to the openness of the Green Belt than those that are proposed in the scheme before me. In particular, any side extension constructed under Class A would be limited to a single storey and would have much less bulk than the two storey front, side and rear extension that wraps around the building.*"

2.7 It is therefore considered that special circumstances of significant weight do not exist to justify this otherwise inappropriate form of development in the Green Belt. For reference the full enforcement appeal decision is appended to this committee report.

2.8 It is material to note that there has been a further appeal decision in respect of application 17/00064/FUL, which proposed a reduced size extension as detailed under the planning history section of this report. Whilst the Council is challenging this decision, the Inspector determining this appeal, found no reason to differ from the previous Inspector's conclusions in relation to the existing unauthorised extensions and the impact on Green Belt and on openness.

3.0 Visual Impact/Impact on Locality:

3.1 The objection to the visual impact of the extensions currently occupying the application site largely derives from their combined mass, volume and scale, and the detrimental impact this has on the open and undeveloped character of the Metropolitan Green Belt.

4.0 Neighbour Impact:

4.1 The proposed extensions would not breach a 60 and 45 degree line measured from the mid-point of the nearest habitable room windows at No.13. The remainder of the extensions are largely positioned to the south of the application site, away from the mutual boundary with this adjoining residential property. To the south the application site borders the M40 motorway and to the west is borders open countryside.

4.2 The proposed extensions are therefore not considered to adversely affect the residential amenities of adjacent properties in terms of overdominance, obtrusiveness, loss of light or

overlooking.

5.0 Parking/Access/Highways:

5.1 Sufficient hardstanding would remain to the front of the dwelling to accommodate 3 vehicles off-road in accordance with the parking standards set out in appendix 6 of the adopted Local Plan.

6.0 Trees/Landscaping:

6.1 The proposals would not have any tree or landscaping implications

7.0 Working With The Applicant

7.1 In accordance with paragraphs 186 and 187 of the National Planning Policy Framework, the Council, in dealing with this application, has worked in a positive and proactive way with the Applicant / Agent and has focused on seeking solutions to the issues arising from the development proposal. South Bucks District Council works with applicants/agents in a positive and proactive manner by: - offering a pre-application advice service, updating applicants/agents of any issues that may arise in the processing of their application as appropriate and, where possible and appropriate, suggesting solutions.

CONCLUSION

As the Planning Committee has visited this site before, it is not considered that value would be added to the decision making process by Members undertaking a further site visit.

It is considered that a fair and reasonable balance would be struck between the interests of the community and the human rights of individuals in the event of planning permission being refused in this instance.

RECOMMENDATION

The Committee resolve that Planning Permission would have been REFUSED for the reasons set out below had an appeal against non-determination not been lodged by the applicant.

1. This proposal, when considered cumulatively together with previous additions to the building would, by virtue of the resultant size and scale of the building when considered in relation to the original building and its potential intrusive impact upon its setting in the landscape, contribute to the erosion of the Green Belt which, individually and when considered in the context of an accumulation of similar proposals, would detrimentally affect the aims and objectives of the Green Belt. As such, the proposal is contrary to policies GB1 and GB10 of the South Bucks District Local Plan (adopted March 1999) which seek to ensure that extensions to dwellings within the Green Belt are, inter alia, of a small scale in relation to the size of the original dwelling, and to section 9 of the NPPF (Protecting Green Belt Land).

2. Notwithstanding the above reasons for refusal, this proposal, if permitted, would be likely to act as a precursor of further applications for similar types of development within this part of the Metropolitan Green Belt and in relation to this residential terrace, which the District Planning Authority would find increasingly difficult to resist and which, cumulatively, would further seriously prejudice the openness of the Green Belt and the aims and objectives of the Green Belt policy, as well as causing unacceptable harm to the character of the existing development.

.....

Head of Sustainable Development 29th December 2017

The Planning Inspectorate

Appeal Decision

Hearing held on 15 November 2016

Site visit made on 15 November 2016

by Chris Preston BA(Hons) BPl MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 December 2016

Appeal Ref: APP/N0410/C/16/3151780
14 Wooburn Green Lane, Holtspur, Beaconsfield, Buckinghamshire HP9 1XE

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr [redacted] Iqbal against an enforcement notice issued by South Bucks District Council.
- The enforcement notice, numbered SB000216, was issued on 27 April 2016.
- The breach of planning control as alleged in the notice is: Without planning permission, the erection of a front porch, two storey side extension and part two storey/ part single storey rear extension.
- The requirements of the notice are: (5.1) Demolish the unauthorised development; (5.2) Make good the existing dwelling following compliance with step 5.1, using matching materials; and (5.3) remove all materials, debris, plant or equipment arising from steps 5.1 and 5.2 from the Land.
- The period for compliance with the requirements is six calendar months after the notice takes effect.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Decision

1. The enforcement notice is varied by the deletion of the words "6 calendar months" in relation to the time period for compliance at section 6 and the substitution of the words "within 12 months". Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

2. At the Hearing an application for costs was made by Mr [redacted] Iqbal against South Bucks District Council. This application is the subject of a separate Decision.

Procedural Matter

3. I held a Hearing regarding two appeals relating to No. 14 Wooburn Green Lane on 15 November 2016. This decision relates to one of those appeals which was made against the decision of the Council to issue an enforcement notice in relation to an alleged breach of planning control, as described in the banner heading above. The other appeal was made against the refusal to grant planning permission in relation to a planning application for the retention of a

front porch and a two storey front, side and rear extension. The planning application proposed the demolition of the single storey element of the extension to the rear.

4. Although the matters are closely related, the planning application proposed a slightly different scheme to that under consideration in the ground (a) appeal relating to the enforcement notice. Therefore, for ease of future reference, and clarity, I have issued a separate decision relating to the appeal against the refusal to grant planning permission. This decision relates solely to the appeal against the enforcement notice.

The Appeal on Ground (c)

5. An appeal on ground (c) is made on the basis that there has not been a breach of planning control. There is no dispute that the extensions require planning permission or that planning permission has not been granted. The appellant's claims on ground (c) relate to his argument that he was under the understanding that planning permission would be granted when he carried out the work. He maintains that he had a legitimate expectation that planning permission would be granted as a result of discussions with planning officers.

6. However, it is clear to me that Mr Iqbal understood that the development was undertaken at his own risk. He acknowledged as much at the Hearing. Although discussions with planning officers were positive on the likely outcome of application 14/01372/FUL, based on the potential fall-back scenario, that advice could not be taken that planning permission would definitely be granted for the development. No record of any conversation with the planning officer is available and I cannot be sure of the exact nature of any discussions. However, it is not unusual, in my experience, for officers to give informal opinions on proposals on the understanding that any application needs to go through a formal decision making process. There is nothing to suggest that officers gave the impression that he should start work without the necessary permission being in place.

7. In fact, an earlier application had also been refused by the Council under delegated powers. In that case, the officer initially recommended the application for approval but the report was returned to her by the officer with delegated authority for making decisions who questioned whether it was correct to take account of a garage as part of the calculation of the 'original dwellinghouse'. As a result of re-checking that point, the recommendation was altered. Work on site had not commenced at the time the first decision was issued. To my mind, the refusal of the first application should have given the appellant an indication that officer advice is not binding and that permission is not secured until a formal decision has been made.

8. Moreover, I find nothing unusual in the sequence of events that led up to the determination of application 14/01372/FUL. The purpose of a delegated scheme or a requirement for approval through a planning committee is to ensure that decision making is rigorously checked. It is not a tick box exercise and the fact that the planning committee took a different view to that of officers on the planning merits is something that they were entitled to do. A subsequent decision of an Inspector upheld the committee's decision.

9. Consequently, the evidence before me does not suggest that any indication was given that it would be acceptable for the appellant to commence work in

the absence of planning permission and any claims that the Council should be prevented from taking enforcement action on grounds of legitimate expectation are not well founded. Accordingly, the appeal on ground (c) fails.

The Appeal on Ground (a)

10. The appeal site is situated within the Metropolitan Green Belt. The main issues are:

    i. Whether the development would represent inappropriate development within the Green Belt

    ii. The effect of the development on the openness of the Green Belt

    iii. If the development represents inappropriate development within the Green Belt whether any harm to the Green Belt by way of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development

Whether the development would represent inappropriate development within the Green Belt

11. The appeal under ground (a) seeks to retain the extensions, as built. Five previous appeal decisions have been issued in relation to the development at the site. The first appeal[1] was against a refusal to grant planning permission in relation to application 14/01372/FUL. Within his decision, the Inspector noted that the development was almost complete at the time of his site visit. Thus, the proposal considered in that appeal is the same development for which permission is now sought under the ground (a) appeal. The subsequent appeals all considered similar proposals, albeit that slight amendments to the development were proposed in each case to reduce the footprint of the development. In all five decisions, the Inspectors have concluded that the proposals would represent inappropriate development within the Green Belt.

12. Paragraph 89 of the National Planning Policy Framework (the Framework) identifies that the construction of new buildings within the Green Belt should be regarded as inappropriate, subject to a number of exceptions. Of relevance to this appeal, the extension or alteration of a building will not be inappropriate, providing that it does not result in disproportionate additions over and above the size of the original building.

13. The term 'disproportionate' is not defined within the Framework. Policy GB10 of the South Bucks District Local Plan (1999) (the Local Plan) states that extensions to dwellings within the Green Belt will normally be permitted provided that, amongst other things, they would be integral to, and of a small scale in relation to the size of, the original dwelling. The rationale for that policy, as explained in the supporting text, relates to the need to protect the openness of the Green Belt and the potential harm caused by the cumulative impact of residential extensions. As a guide, the text notes that extensions that increase the floorspace of the original dwelling by more than half will not be regarded as small scale and, in some cases, extensions that increase the floorspace by less than half may still be unacceptable, taking account of their

[1] Appeal ref: APP/N0410/D/14/2229223

overall size, design and impact upon the Green Belt. The original dwelling is defined as that which existed at 01 July 1948.

14. Whilst the policy pre-dates the publication of the Framework, I am satisfied that the aims reflect those of the Framework, particularly with regard to the protection of the openness of the Green Belt. Similarly, it seems to me that the way in which small-scale additions are defined is broadly consistent with paragraph 89 which states that 'disproportionate' additions will be regarded as inappropriate development. Therefore, having regard to paragraph 215 of the Framework, I give substantial weight to the terms of saved policy GB10.

15. There was much debate at the Hearing regarding the original floorspace of the dwelling, as it existed on 01 July 1948. The appellant contends that it is likely that a garage was in-situ at that time and that the floorspace of that garage should be included in any calculation. A copy of a planning permission for a pre-cast concrete garage, dated 06 April 1955, was submitted at the Hearing by a neighbouring resident. That, of itself, does not demonstrate whether an earlier garage was in place as of 1948 but no direct evidence is before me to indicate that an earlier garage was present. Planning permission was granted for the dwelling in 1946 and it would be unusual, to my mind, for a new garage to be required only 9 years later had one been constructed with the original property. Therefore, on the balance of probability, and in the absence of anything to the contrary, I consider it likely that no garage was in place as of 01 July 1948.

16. However, even if I were wrong on that point, it would not have a significant bearing on my assessment of whether the extension is disproportionate or small-scale in relation to the Framework or policy GB10. Based on the covering letter provided by the appellant with application 16/00709/FUL, the floor area, measured externally, of the extension is 104m². Having regard to all of the figures presented the floorspace of the extension is well in excess of 50% above the floorspace of the original dwelling, whether or not a garage was included in the original calculation. Without the inclusion of a garage the increase is significantly above 50% and, for the reasons given, I consider that is the basis upon which the scheme should be assessed.

17. Moreover, the floorspace calculation is only one element that must be considered when judging whether an extension is disproportionate. The Inspector in relation to appeal reference APP/N0410/W/15/3033421 noted that the two storey element of the extension wraps around three sides of the original dwelling, projecting to the front, side and rear. She considered that the significant increase in the scale and mass of the extensions, in addition to the increase in floorspace, would represent a disproportionate addition.

18. Nothing has been presented that would lead me to reach a different conclusion. The volume of the extension and the overall bulk and mass represent a significant expansion when compared to the original dwelling. Having viewed the scheme in context at my site visit a clear comparison can be gained between what would have been the original dwelling and the development as constructed. The outward scale of the extension dwarfs the modest proportions of the originally modest semi-detached dwelling.

19. Any increase in floorspace must be assessed alongside the external scale and mass of the extension, as acknowledged in the supporting text to policy GB10. Having regard to all of the factors identified above I conclude that the

extension represents a disproportionate addition for the purposes of paragraph 89 of the Framework and that it is not a 'small-scale' addition in relation to Policy GB10 of the Local Plan. As such, it amounts to inappropriate development within the Green Belt.

The effect of the development on the openness of the Green Belt

20. By virtue of its scale, bulk and overall size the extension has had a negative effect upon the openness of the Green Belt. That impact is noticeable as one passes the site along Woodburn Green Lane and the two storey gable end of the side and rear extension is visible as one approaches from the south, over the bridge which crosses the M40. The M40 runs closely adjacent to the side of the dwelling but is set down in a cutting and the vegetation on the steeply graded banks prevents any clear views of the extension from that busy motorway.

21. Clearly, in the context of the Green Belt as a whole the effect of the development is relatively small. Nonetheless, policy GB10 of the Local Plan sets out the rationale for controlling the size of extensions based on the potential cumulative impact that would result if the scale of residential extensions was not controlled. That rationale is clearly embedded in the Framework which seeks to ensure that extensions are of a proportionate scale to the original dwelling. Therefore, the fact that the impact is localised does not represent a positive factor in favour of the development. The loss of openness represents harm to the Green Belt and I attach weight to that harm accordingly.

If the development represents inappropriate development within the Green Belt whether any harm to the Green Belt by way of inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development

Any other harm and other considerations

22. The reason for refusal refers to the 'potential intrusive impact' upon the setting of the dwelling within the landscape. I sought clarification at the Hearing as to whether the Council considered that the visual appearance of the development caused harm to the character and appearance of the area. The Council confirmed that it did not object to the outward appearance of the extensions from a design or aesthetic point of view but did have concerns relating to the scale and size of the additions to the dwelling, albeit that the rear element is not prominent from public vantage points.

23. In effect, the Council's objection on grounds of visual impact relates to the loss of openness as opposed to any concerns over the design of the extension. By definition, openness is an essential characteristic of the Green Belt and, thereby, an essential characteristic of the character of the area in which the site is located. In the local context, the dwelling is situated at the end of a run of semi-detached dwellings with the M40 immediately to the south. Aside from the M40, the dwellings are surrounded by open and undeveloped land.

24. In that context I consider that the development has had a negative effect on the character of the local area by increasing the scale of built form in the row of dwellings and reducing the feeling of openness through the development of

the previously open space to the side and rear of the building. Thus, the reduction in openness has a negative effect on the character and appearance of the area.

25. The appellant has suggested that the area is not worthy of inclusion within the Green Belt and that the boundaries are currently under review. However, the Council has stated no review relating to the area is being undertaken. At the time of writing, the site is undoubtedly within the Green Belt and I must make my decision on that basis.

26. At the Hearing, the appellant submitted a completed planning obligation in the form of a Unilateral Undertaking (UU) made pursuant to section 106 of the Town and Country Planning Act 1990 (the Act). The UU contains two obligations which would come into effect if I were to allow the appeal. The first is an undertaking not to carry out any development under the provisions of Classes A, B and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO), or any order revoking or re-enacting that order. In other words, it is an obligation that would remove permitted development rights for further extensions or outbuildings.

27. The National Planning Practice Guidance (PPG) advises that conditions removing permitted development rights will rarely pass the test of necessity and that such rights should only be removed in exceptional circumstances. Just as conditions should only be imposed where they are necessary, planning obligations should only be sought where they are necessary to make a development acceptable in planning terms.

28. As noted by previous Inspectors it is common for permitted development rights to be exercised at properties within the Green Belt. There are no exceptional circumstances in this instance that would justify the removal of permitted development rights and the removal of such rights would not alter the conclusion that the extension would be a disproportionate addition to the original dwelling thereby representing inappropriate development within the Green Belt.

29. Nor am I satisfied that the potential 'fall-back' of extensions to the dwelling that could be constructed under the permitted development regime would be more harmful to the openness of the Green Belt than those that are proposed in the scheme before me. In particular, any side extension constructed under Class A would be limited to a single storey and would have much less bulk than the two storey front, side and rear extension that wraps around the building.

30. In addition, there is little evidence of any genuine intent to erect a swimming pool within the garden and the appellant's submissions on that point appear to be an attempt to justify the retention of an excessively large extension on the basis of the removal of permitted development rights for a theoretical development that may be constructed under Class E. The purpose of permitted development rights under Class E is to enable buildings or structures that are 'incidental to the enjoyment of the dwellinghouse' to be erected. In other words, out-buildings or other structures that do not form part of the primary accommodation. That is distinct from extensions to the primary accommodation that may be permitted under Class A. The two classes serve different functions and I am not satisfied that permitted development rights for outbuildings can legitimately be 'traded off' to justify an extension to a dwelling

that would otherwise be unacceptable in Green Belt terms, having regard to paragraph 89 of the Framework. I am sure that many householders wishing to construct large house extensions could make similar arguments. Therefore, I attach little weight to that obligation.

31. The second obligation within the UU would prevent the implementation of planning permission 15/02135/FUL. However, based on the plans it would be difficult to implement that permission without removing the majority of the current extension. Thus, it is not a situation whereby the approved extension and the current extension could both be developed, as can sometimes be the case, thereby exacerbating harm to the Green Belt. Moreover, the approved development is largely based upon a composite of a front porch, side, rear and roof extensions that could be erected under the permitted development regime. As set out above, I find that the impact on the openness of the Green Belt would be less than the scheme before me. Thus, if the current extension were substantially demolished to make way for the approved scheme it would benefit the Green Belt and the obligation does not amount to a consideration in favour of the proposal.

32. When assessing the application to extend No. 13 Wooburn Green Lane, the Council accepted that a garage had been in situ as of 1948, such that it constituted part of the original dwellinghouse. The Council subsequently accepted that the assumption may have been incorrect. Notwithstanding that point, the two storey element of that extension is limited to the side of the dwelling and does not wrap around the front, side and rear as is the case with the extension at No. 14. Thus, the presence of the partially implemented planning permission relating to No. 13 does not amount to a justification for the larger development at the appeal site.

33. I have also taken account of the appellant's personal circumstances, including his financial position and the way in which work commitments resulted in a tight timeframe within which an extension could be constructed. [redacted]. That will no doubt make planning normal domestic duties or matters such as extending a property more complex than would be the case for many people.

34. [redacted] Whilst of modest proportions, the original semi-detached property would accommodate most families. Moreover, many families live in dwellings whilst extensions are being carried out and, whilst I can appreciate a desire to get on with things, I am not satisfied that the circumstances represent a consideration in support of the application in planning terms, or a justification for building without planning permission.

35. I note that the work undertaken has modernised the property and brought it into line with modern standards of insulation and thermal efficiency. However, any work undertaken that requires building regulations approval would need to be constructed to an appropriate standard and there is nothing exceptional in relation to the property that would represent a significant benefit in planning terms.

36. The scale of the extension is substantial and I have no doubt that the cost of the works to remove the extension would be significant. That may well lead to

financial hardship for the appellant who indicated that he may be forced to sell the property and move his family [redacted]. It is likely that would be disruptive and stressful for the family as a whole. Article 8(1) of the European Convention on Human Rights, as enshrined in the Human Rights Act (1998) states that everyone has the right to respect for his private and family life, his home and his correspondence. To my mind this is undoubtedly a case where Article 8 is engaged because a decision to refuse planning permission and uphold the enforcement notice would interfere with the home and family life of the occupants.

37. In assessing the impact on the family I am required to pay particular attention to the best interests of the children. Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of children must be a primary consideration in all actions made by public authorities. I must consider the Article 8 rights of the children in that context. Article 8(2) identifies that there shall be no interference by a public authority with the exercise of Article 8 rights except as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, the economic well-being of the country, the prevention of crime and disorder, the protection of health or morals, or for the protection of the rights or freedoms of others.

38. In other words, rights under Article 8(1) are qualified rights and, in appropriate circumstances, interference may be justified in the public interest. Regulation of land use through development control measures is recognised as an important function of Government and is necessary to ensure the economic well-being of the country. In that sense, the regulation of development for legitimate planning aims can be said to be in the public interest. The aim is to strike the right balance between the general interests and rights of the wider community and the requirement to protect an individual's private rights. Central to the principle of a fair balance is the doctrine of proportionality.

39. The appellant and his wife have clearly expressed a desire for a settled family life, close to relatives and friends, [redacted] I have no reason to doubt that their decision to move into the property [redacted] was taken with the best interests of the children in mind and, as parents, they are best placed to make such decisions. The courts have held that no other consideration can be considered as inherently more important than the interests of the child. Thus, that is a matter that attracts significant weight. That is not to say that the interests of the child cannot be outweighed by other considerations in terms of the planning balance. In determining the weight to be given to those rights it is necessary to evaluate the individual circumstances of those interests along with other material factors. In essence, that requires a proportionality assessment based on the circumstances of the case. I shall address that matter below.

Very Special Circumstances

40. Paragraph 87 of the Framework notes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that, in considering planning applications, substantial weight should be given to any harm to the Green Belt and 'very special circumstances' will not exist unless the harm to the Green

Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

41. Therefore, the harm to the Green Belt that I have identified is a matter that attracts substantial weight. It is in the interest of the public and the local community to ensure proper regulation of land and to prevent inappropriate development within the Green Belt. There is also consequential harm to the character and appearance of the area. For the reasons given, I am not satisfied that the obligations in the Unilateral Undertaking or the suggested fall-back scenarios are matters that weigh in favour of the proposal.

42. I must weigh the substantial harm identified above against the personal circumstances of the appellant and his family, taking account of the best interests of the children. Although I have concluded that it may well be in the best interests of the children to remain in the dwelling, something that may not be possible if the enforcement notice is upheld, there is no indication that the family would become homeless. Mr Iqbal identified at the Hearing that they would have to move [redacted]. Many families live in such accommodation and there is no reason to suppose that a happy and settled family life would not continue in those circumstances, including for the children who may well enjoy the benefit of living close to other families and children. Given those circumstances, the weight I attach to the potential interference with the rights of the appellant and his family is moderated.

43. When considered in the round I conclude that the interference of the human rights of the family, including the loss of their home and the effect on their family life would be lawful, necessary and proportionate. I have had particular regard to the best interests of the children but, for the reasons set out, the weight that I attach to those interests does not outweigh the very strong public and community interest in preventing inappropriate development within the Green Belt. Consequently, I am not satisfied that any material considerations have been put forward that clearly outweigh the harm to the Green Belt.

44. Accordingly, very special circumstances do not exist to justify the development and I conclude that planning permission should not be granted having regard to the terms of the Framework and the Local Plan. Accordingly, the appeal on ground (a) fails.

The Appeal on Ground (f)

45. A ground (f) appeal is made on the basis that the steps required by the notice to be taken exceed what is necessary to remedy any breach of planning control or, as the case may be, to remedy any injury to amenity. The steps required in this instance are the complete demolition of the extension and, as the reasons for issuing the notice relate to a wider planning function in terms of protection of the Green Belt, it appears to me that the purpose of the notice is to remedy the breach of planning control, as opposed to any injury to amenity. The Council confirmed that to be the case at the Hearing. The question under ground (f) is therefore whether lesser steps to complete demolition are available that would remedy the breach of planning control.

46. The appellant has planning permission to extend the dwelling, as referred to above[2]. However, that scheme is fundamentally different to the development

[2] LPA reference 15/02135/FUL

as built in terms of the layout and footprint. The appellant acknowledged at the Hearing that it would be necessary to demolish the current extension in order to build the extant permission. Thus, the terms of the notice could not be amended to require that the development was altered or reduced to conform to the details of the approved scheme. Similarly, it has not been suggested that the scheme could be amended to make it conform to any planning permission granted through the GPDO.

47. Various alternative schemes, which proposed a reduction in the scale of the extensions, have been considered in the numerous appeal decisions relating to the site and all have been dismissed. No planning permission is therefore in place for any alternative development and no steps have been suggested that would remedy the breach of planning control. The appellant suggested at the Hearing that he would be willing to substantially reduce the scale of the extension, if that would enable him to avoid complete demolition. However, as above, in the absence of a planning permission for an alternative, any revised scheme would still represent a breach of planning control.

48. Given that an appeal has been made on ground (a) it would be possible, under the terms of section 177(1)(a) of the Act, to grant planning permission 'in relation to the whole or any part' of the matters described in the breach. However, the scope of s177(1)(a) is limited to that extent and it is not open to me to suggest a different form of development that may be acceptable. No plans have been presented to the appeal to demonstrate how part of the existing extension could be retained in a way that would be acceptable in Green Belt terms. The two storey element extends to the front, side and rear and wraps around the rear section of the building. It is not readily apparent how various elements of the extension could be separated such that planning permission could be granted for part of the development.

49. The appellant had previously sent sketch plans of various options to the Council but none of those options appear to reduce the scale of the extension to any significant degree and the Council also raised concerns about the outward appearance of some of the suggested alterations. Moreover, the options did not seek merely to retain part of the existing extension but would have required other remedial works and alterations. As such, I am not satisfied that those schemes would be acceptable in planning terms or that they could be considered to fall within the limited scope of section 177(1)(a).

50. It may be that parts of the extension could be retained on broadly the same footprint if there were substantial reductions in the scale and height of various sections, perhaps to a single storey. A ground floor extension on the same footprint would clearly have a much reduced impact when compared to the current two storey extension. However, no plans have been presented to show how such an alternative could be achieved and, in the absence of an obvious alternative, I cannot grant planning permission for part of the development under ground (a).

51. In view of the above, it follows that no options are available, other than demolition, that would remedy the breach of planning control. The appeal on ground (f) therefore fails.

The Appeal on Ground (g)

52. The Council considers that six months is an adequate period of time to comply with the notice. That is based on an estimate from their building control officer who considered that two weeks would be sufficient for the physical works of demolition and that one month would be needed to make good the existing dwelling. Nothing has been presented that would lead me to conclude that those time periods are unrealistic in terms of the physical works. However, the appellant would need to organise the works and employ a contractor to undertake them.

53. The appellant has requested that 2-3 years is given to allow funds to be generated to undertake the necessary works and replace the extensions with the extant permission. I must balance the circumstances of the appellant with the need to ensure expediency in the enforcement of the planning system. Having regard to the submissions of the appellant, the need to generate funds to erect a different extension should not, in my view, be seen as justification to delay the demolition of the current structure. In that sense, 2-3 years is excessive.

54. However, I am mindful of the appellant's financial circumstances [redacted]. In addition, as noted in relation to ground (f), it is possible that a revised scheme could be agreed that would substantially reduce the scale of the extensions but retain a similar ground floor footprint, thereby avoiding the need to demolish the entirety of the structure. The appellant indicated a willingness to consider a substantial reduction in the scale of the extension at the Hearing and the Council has indicated that it may find a well-designed reduction in scale acceptable, depending on the details[3].

55. If planning permission was sought and granted for a reduced scheme, the enforcement notice would cease to have effect insofar as it was inconsistent with any permission granted under the terms of section 180(1)(b) of the Act. In other words, if planning permission was granted to retain part of the extension, the notice requiring demolition would not have effect in relation to that part of the development. Given that there would appear to be potential for a reduced scheme to be approved, it seems reasonable to allow a period of time for an application to be submitted and considered. I consider that six months should be an adequate time for that to occur.

56. If no agreement can be reached at that point a further six month period, as suggested by the Council, would provide sufficient time to secure the demolition of the structure.

57. I appreciate that proceedings in relation to the site have already been protracted and that numerous applications and appeals have been considered. However, as set out above, none of the suggested variations proposed any significant reduction in the scale of the extension. The appellant appeared genuinely willing to put forward a much reduced scheme, when faced with the possibility of demolishing the entire structure, and I consider it reasonable to extend the period for compliance to allow the possibility of a revised planning application to be considered. Accordingly, the appeal on ground (g) succeeds and I shall extend the period for compliance to 12 months.

[3] Paragraph 8.13 of the Council's Statement

Overall Conclusion

58. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with variations and refuse to grant planning permission on the deemed application.

Chris Preston

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr [redacted] Iqbal	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Stephen Kyle BSc (Hons) Dip TP MRTPI	Area Team Manager

INTERESTED PERSONS:

Mr Jones	Local resident
Mr Trice	Local resident

Documents Submitted at the Hearing

1) Copy of decision notice relating to planning permission EE/37/55, dated 06 April 1955
2) Letter of correspondence between Arthur D. Jameson (General Building Contractor) and Mrs C.E. Marson, then resident of 14 Wooburn Green Lane, dated 25 May 1955

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