

Appeal Decision

Site visit made on 28 November 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 13th December 2016

Appeal Ref: APP/G5180/D/16/3159531

12 Barnet Wood Road, Hayes, Bromley BR2 8HJ

- 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 Richard North against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00983/FULL6, dated 26 February 2016, was refused by notice dated 13 June 2016.
 - The development proposed is demolition of garage and erection of 2 storey side and rear extension.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether or not the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - Whether the proposal would preserve or enhance the character or appearance of the Conservation Area; and
 - If the proposal is inappropriate development whether the harm by reason 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.

Reasons

Whether or not the proposal is inappropriate development in the Green Belt

3. The appeal site is a detached two storey dwelling located on the north side of Barnet Wood Road within the Bromley, Hayes and Keston Commons Conservation Area and within the Green Belt.
 4. By virtue of paragraph 89 of the National Planning Policy Framework (the Framework) the construction of new buildings in the Green Belt is inappropriate subject to a number of specified exceptions one of which 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.
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5. It is proposed to demolish the existing garage and construct a part one, part two storey side and rear extension. The property has not been previously extended. The existing footprint of the dwelling is 176m² and the proposed would be 275m² representing a significant increase in the floor area of approximately 56%. Policy G4 of the Council's Unitary Development Plan (UDP) 2006 states that extensions or alterations to dwelling houses in the Green Belt will only be permitted, amongst other things, if the net increase in the floor area over that of the original dwelling house is no more than 10%, as ascertained by external measurement. Conflict thus arises with Policy G4.
6. It is suggested that the Policy G4 may be out of date by seeking to restrict extensions to a specific percentage limit as the Framework merely refers to 'disproportionate additions'. Notwithstanding whether a specific percentage limit should be applied, I consider that an increase in the floor space of the appeal property of 56% together with the increase in volume and mass would result in disproportionate additions over and above the size of the original building. It, therefore, follows that the proposal is inappropriate development.
7. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. I give this conclusion substantial weight.
8. Saved Policy G4 of the UDP seeks to ensure that national Green Belt policy is applied. Although based on previous national policy, and notwithstanding the percentage limit, the thrust of the Policy is to avoid disproportionate additions to buildings in accordance with the Framework. It does not, therefore, alter my conclusion that the proposal would be inappropriate development.

Openness of the Green Belt

9. There is no definition of openness in the Framework but, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. The essential characteristics of Green Belts are their openness and their permanence and one of the purposes of the Green Belt is to keep land permanently open.
10. Barnet Wood Road comprises of linear development of large detached properties set in spacious plots with mature landscaping creating a spacious and verdant feel to the area. The existing single garages between the host property and the adjacent property allow views through to the mature landscaping to the rear of the properties. The rear garden of the appeal site backs onto open paddocks and fields.
11. The significant increase in floor space of approximately 56% would, by virtue of the increased volume, mass and bulk lead to a loss of openness of the Green Belt. Furthermore, the additional storey would in particular lead to a loss of openness at first floor level and reduce views through the properties to the mature landscaping to the rear.
12. I, therefore, conclude that the proposal would lead to a significant loss of Green Belt openness. I give substantial weight to that harm.

Conservation Area

13. The appeal property is situated within the Bromley, Hayes and Keston Commons Conservation Area. It is situated within the sub-area of the Barnet

Wood Group as identified in the Bromley, Hayes and Keston Commons Conservation Area Supplementary Planning Guidance (SPG) 2005. The SPG identifies this sub-area as consisting of a collection of assorted detached properties mostly to the north of Barnet Wood Road and adjoining the edge of Barnet Wood. It refers to the character of Barnet Wood Road as being defined by houses which sit comfortably in reasonably sized plots. It also identifies *'attractive late 20th century houses in the neo-Georgian style'*. Whilst the host property respects the character of the Conservation Area it does not add to the historic or architectural interest and thus I consider that it makes a neutral contribution to the Conservation Area in its existing form.

14. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
15. The SPG states that the Council will resist, amongst other things, excessive alteration of buildings that are deemed to make an important contribution to the character and appearance of the Conservation Area. Whilst paragraph 5.3 of the SPG states that buildings and places must evolve over time the SPG, nevertheless, requires extensions and additions to reflect the form of the host building, along with the design philosophies underlying its style. Extensions should not be so large as to dominate or compete in visual terms with the host building.
16. The extension would extend the floor area by approximately 56% and would involve a two storey extension to the front and a part two storey, part single storey extension to the rear. These significant extensions would dominate the host property and reduce views through to mature landscaping to the rear. Consequently, the proposal would appear cramped and contrast markedly with the spacious plots of surrounding properties which define the character of this part of the Conservation Area.
17. Paragraph 1.17 of the SPG states that proposals involving changes to buildings which make a neutral contribution to the Conservation Area may be supported where this will result in a substantial net enhancement to the character and appearance of the Conservation Area. However, for the reasons stated, I consider that the proposal would result in material harm to the character and appearance of the Conservation Area.
18. Consequently, I conclude that the proposal would fail to preserve or enhance the character or appearance of the Conservation Area the desirability of which I am required to have special regard and attention and to which the Courts judge I am required to give considerable importance and weight. Whilst the harm may be less than substantial the benefits of the proposal in terms of providing additional living accommodation for the occupiers would not outweigh the significant harm which I have identified.

19. The proposal is, therefore, contrary to criterion i of Policy BE1 of the UDP which states that development should be imaginative and attractive to look at, should complement the scale, form, layout and materials of adjacent buildings and areas. Conflict also arises with criterion ii of Policy BE1 which states that development should not detract from the existing street scene. The proposal is also in conflict with Policy BE11 of the UDP which seeks to preserve or enhance the character and appearance of conservation areas by, amongst other things expecting proposals for the alteration or extension to a building to respect or complement the layout, scale, form and materials of existing buildings and spaces.
20. Furthermore, the proposal is contrary to the SPG and paragraphs 132 and 134 of the Framework. I agree that Policy G4 is relevant to the first reason for refusal.

Other considerations

21. The appellant considers that the UDP is out of date as the Council is unable to demonstrate that it has a five year supply of deliverable housing land. Whilst no specific evidence is before me relating to housing land supply the Council has not challenged this assertion. Paragraph 49 of the Framework states that *'housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites'*. On this basis only relevant policies for the supply of housing would be out of date, not the whole UDP.
22. The cases of Suffolk Coastal District Council and Hopkins Homes Limited and SSCLG, Richborough Estates Partnership LLP and Cheshire East Borough Council and SSCLG¹ establishes that the decision maker has the flexibility to determine in the circumstances before him/her what policies fall within the ambit of paragraph 49, and how much weight to be given to them in the overall planning balance.
23. Policy G4 of the UDP specifically relates to the extension or alteration of dwelling houses in the Green Belt, it does not seek to restrict new housing in the Green Belt. The Policy seeks to apply national policy in the Green Belt and although based on previous national policy, Policy G4 takes an essentially similar approach. Policies BE1 and BE11 of the UDP do not seek to restrict new housing development. Consequently, significant weight can be attributed to all three Policies in my Decision. In any event the proposal would not provide additional new housing it would merely extend the living accommodation of the existing occupiers.
24. The appellant contends that the sympathetic scale, design and materials constitute very special circumstances. However, the design of the extension is neither exceptional nor innovative and I have already concluded that the proposal would dominate the host property and harm the openness of the Green Belt and also character and appearance of the Conservation Area. I attach significant weight to this harm in my Decision.

¹ Suffolk Coastal DC v Hopkins Homes & SSCLG and Richborough Estates v Cheshire East BC & SSCLG [2016] EWCA Civ 168.

25. Attention is drawn to the fact that the property retains permitted development rights; however, an extension or alteration which could be erected under permitted development rights would be significantly smaller than the appeal proposal. The presence of permitted development rights does not, therefore, justify the significant harm which I have identified. The absence of objections from neighbouring properties is a neutral factor in my Decision.

Other matters

26. Attention is drawn to extensions which have been erected at numbers 14 and 16 Barnet Wood Road. However, very limited details of those cases have been provided and I note that both cases precede the publication of the Framework and no 16 was granted permission in 1999 which precedes the current development plan. The Council also state that very special circumstances applied to those proposals. Those cases are not, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.

Conclusion

27. I have concluded that the proposal would be inappropriate development and would, therefore, by definition be harmful to the Green Belt. I have also concluded that the proposal would harm the openness of the Green Belt. Paragraph 88 states that substantial weight should be given to any harm in the Green Belt. Furthermore, I have concluded that the proposal would fail to preserve the character and appearance of the Conservation Area.
28. Whilst there may be some benefits of the proposal in terms of providing additional living accommodation for the occupiers I consider that the substantial weight to be given to the Green Belt harm is not clearly outweighed either individually or cumulatively by other considerations sufficient to demonstrate very special circumstances. Consequently, the very special circumstances to justify the development do not exist.
29. The adverse impacts of the proposal would, therefore, significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
30. For the reasons stated above and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

INSPECTOR