



Appeal Decision

Site visit made on 10 February 2017

by Timothy C King BA (Hons) MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/P5870/D/16/3165507

230 Banstead Road, Banstead, SM7 1QE

- 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 & Mrs P Fernandes against the decision of the Council of the London Borough of Sutton.
 - The application Ref A2016/74795/HHA, dated 30 June 2016 was refused by notice dated 1 September 2016.
 - The development proposed is '*adaption of existing flat roof over garage into a roof terrace with steel steps to access from rear, incorporation of screening to all sides as per drawing & photos.*'
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Decision

1. The appeal is allowed and planning permission is granted for the creation of a roof terrace over existing garage with steel steps and screening to a maximum height of 1.8m at 230 Banstead Road, Banstead, SM7 1QE in accordance with the terms of the application Ref A2016/74795/HHA, dated 30 June 2016, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. 10614-04-A and 10614-LP.
 - 2) The 1.8m high privacy screen hereby approved shall be permanently retained.

Procedural Matters

2. The development, as acknowledged by the Council, is already in situ, save for the intended steel steps, and I can confirm from my site visit that it accords with that shown on the submitted drawings. However, I am required to still treat the case as a proposal for development and have approached the matter, accordingly.
 3. I have slightly altered the proposal's description to more closely focus on the development involved.
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Main Issues

4. Given the site's Green Belt location the main issues in this appeal are:
 - i) whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework;
 - ii) the effect of the proposal on the openness of the Green Belt;
 - iii) whether the proposal would result in any other harm, with particular regard to the privacy of neighbouring occupiers; and
 - iv) if it is inappropriate development whether the harm by reason of inappropriateness and by reason of 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 the proposal is inappropriate development

5. The appeal property is a two-storey detached dwellinghouse set back from Banstead Road. The dwelling appears to have been extended and a detached garage structure is positioned beyond the rear building line, close to the common boundary with No 228. The appeal relates to the creation of a terrace on the garage's flat roof, and the creation of perimeter screening to a height of some 1.8m.
6. As to what constitutes inappropriate development in the Green Belt I rely, firstly, on the relevant advice contained within the National Planning Policy Framework (the Framework), issued in March 2012. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that the construction of new buildings should be regarded as inappropriate development therein. Paragraph 89, however, lists certain developments that would constitute exceptions to this and this includes 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.
7. The Council's Site Development Policies Development Plan Document (DPD) was also adopted in March 2012. Policy DM15 thereto takes a more prescriptive stance than the Framework's approach and indicates that so long as the increase in floor area is no greater than 30% above the size of the original dwelling and that the Green Belt's openness is not affected the Council will grant planning permission for extensions. In this particular instance, the Council mentions that the dwelling has already been extended by over the 30% threshold and, in its consideration that the terrace results in additional floorspace, has applied Policy DM15 rigidly.
8. The garage's flat roof is not of substantial area, the terrace itself is not overlain by a roof, and I consider that treating it as additional floorspace is somewhat tenuous in the circumstances. Indeed, I have nothing before me to indicate that, irrespective of the screening erected, the garage roof could not be used for amenity purposes. To my mind the development is more an alteration and the enclosure's height is tempered and softened by the ivy and reed screening.

As such, I am inclined to take the Framework's guidance as being more applicable here.

9. On this first main issue I thereby conclude that the proposal does not constitute inappropriate development within the Green Belt for the purposes of the Framework.

Openness

10. The Framework states that an essential characteristic of Green Belts is their openness and that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land within them permanently open.
11. The Council's view is that the garage roof's perimeter screen, by reason of its height and the resultant, usable floorspace would harm the Green Belt's openness. However, in its context, with the garage already in situ, and the manner of screening involved, which I have indicated mitigates against the height increase, I find that the development would have only a neutral effect on the openness.
12. I thereby conclude that the proposal does not harm the openness of the Green Belt and there would be no material conflict with DPD Policy DM15.

Other harm

13. As to whether the proposal would give rise to any other harm the Council has raised concerns only insofar as it considers the proposal would result in both actual and perceived overlooking, with a consequential loss of privacy to the adjacent property, No 228. Steel steps would be incorporated to access the garage roof from its rear but, at my site visit, I climbed a ladder to stand on the roof and assess the visibility therefrom. As expected, due to the height of the screen, this is extremely limited, if at all possible by persons of average size. I could not view No 228's rear garden from the garage's roof and the neighbouring dwelling itself is satisfactorily distanced from its nearest point. Also, as the enclosed roof area is not of substantial size, and intensity of use is therefore unlikely, I am satisfied that the neighbouring occupiers would not be unduly affected by the development.
14. In the circumstances I have described, for obvious reasons, I consider it imperative that the screening, as it currently exists, should be retained in situ, and a condition is therefore necessary to ensure this. Bearing in mind that neighbouring occupiers can readily view the development, and the Council could be alerted in the event that the screen was removed, I regard such a condition as suitably enforceable.
15. I conclude, on this main issue, that the proposal would not result in any other harm arising, and there would be no material conflict with DPD Policy DM2 nor the relevant aims of the Council's Supplementary Planning Document 4 'Design of Residential Extensions' (SPD).

Very Special Circumstances

16. I have found that the development would not amount to inappropriate development within the Green Belt and, as such, the issue as to the existence of very special circumstances does not arise.

Conclusion and Conditions

17. I have found the proposal to be acceptable in all respects so, for the above reasons and having had regard to all other matters raised, the appeal succeeds. In terms of conditions, in the interests of certainty I impose a condition requiring that the development be completed in accordance with the approved plans. Also, to protect the amenities of neighbouring occupiers, I impose a condition requiring that the privacy screening be retained.

Timothy C King

INSPECTOR