
Appeal Decision

Site visit made on 25 April 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 16 May 2017

Appeal Ref: APP/G5180/W/17/3168480

Millfield, Ashmore Lane, Keston, Bromley BR2 6DJ

- 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 Kevin and Janet Lee against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/04578/FULL1, dated 30 September 2016, was refused by notice dated 29 November 2016.
 - The development proposed is redevelop existing builder's yard with a single-storey detached bungalow with associated landscaping and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a one bedroom detached bungalow including basement area with associated landscaping and parking at Millfield, Ashmore Lane, Keston, Bromley BR2 6DJ in accordance with the terms of application Ref DC/16/04578/FULL1, dated 30 September 2016, subject to the conditions set out in the attached schedule.

Procedural Matter

2. The Council changed the description of application Ref DC/16/04578/FULL1 from that contained on the application form to 'the erection of a one bedroom detached bungalow including basement area with associated landscaping and parking'. This is a more accurate description of the development proposed which I have therefore used in this decision.

Main Issues

3. The main issues in the appeal are:
 - Whether or not the proposal is inappropriate development in the Green Belt.
 - The effect on the openness of the Green Belt and the purpose of including land within it.

Reasons

Whether or not the proposal would amount to inappropriate development

4. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out the categories of development which may be regarded as not inappropriate in the Green Belt, subject to certain conditions. New buildings within the Green Belt are inappropriate unless, amongst other things, they relate to the partial
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- or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
5. The appeal site comprises a builders' yard that was granted a Certificate of Lawfulness for the use in 2004. It is occupied by three buildings and two storage containers with the remaining area being used for the storage of materials, plant and a substantial waste material tipping pile. Open countryside is located to the north and west with a small cluster of residential properties and farm complexes to the south and east.
 6. Taken as a whole, and given the extent of built development and outside storage, I consider that the site is previously developed for the purposes of the definition provided within the Framework.
 7. The Council's approach to the consideration of development within the Green Belt is set out in saved Policy G1 of the Bromley Unitary Development Plan (UDP) adopted in 2006. This policy predates the advice provided in the Framework. The appellant has drawn my attention to a recent appeal decision that have considered whether saved Policy G1 is consistent with the advice provided in the Framework regarding development within the Green Belt (Ref APP/G5180/W/16/3155275). I agree with my colleague Inspector that saved Policy G1 is not consistent with the sixth exception of paragraph 89 of the Framework regarding the partial or complete redevelopment of previously developed sites. As a consequence, in applying the requirements of paragraph 215 of the Framework, I attach only limited weight to Policy G1, which I consider to be out of date.
 8. The proposed development would result in the partial redevelopment of the site with a modest bungalow and associated curtilage with approximately 1,292 sq. m forming the remaining area of the builders' yard being returned to open green space. Given my findings regarding the previously developed nature of the site, I do not consider that the principle of the proposed scheme would be inappropriate development within the Green Belt, subject to the consideration of the impact on openness and the purposes of including land within the Green Belt.

Openness and Green Belt purposes

9. A fundamental characteristic of Green Belts, as set out in paragraph 79 of the Framework, is their openness and their permanence. Whilst the existing buildings, being generally agricultural in their appearance, do not detract from the rural character of the area, taken together with the external storage areas and in particular the waste material pile, the site currently impacts significantly upon the openness of the Green Belt.
10. Since the previous appeal decision (Ref APP/G5180/W/15/3139842) the scheme has been amended to reduce the height, footprint and volume of the proposed bungalow. In addition, the proposed residential curtilage area has been reduced which enables a significant part of the current site to be returned to open green space.
11. The appellant indicates that the footprint of the proposed bungalow would be approximately 120 sq. m and thus is smaller than the existing permanent

structures on the site which are indicated to have a footprint of 133.5 sq. m. The proposed volume of the bungalow would equate to approximately 436.6 m³ compared to 438 m³ of the existing buildings. I have no evidence to suggest that the appellant's calculations of the footprint and volume of the proposed and existing development may be incorrect. Therefore, on the basis of these figures, the extent of the proposed built development would be less than currently exists.

12. In addition, the position of the proposed bungalow has been relocated towards the southern boundary which assists in ensuring that the majority of the site would be largely open in character. Therefore, in comparison to the scheme considered in the previous appeal, the proposed development would result in a material increase in openness. In addition, it would not result in the sprawl of the built development area, result in encroachment in the countryside or affect any historic setting of towns. As such, it would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.
13. I therefore conclude that, overall, the scheme would materially increase the openness of the Green Belt and would not conflict with the five purposes of including land within it as set out at paragraph 80 of the Framework. Consequently, this reinforces my view that the proposal would not be inappropriate development within the Green Belt.

Conditions

14. The Council has suggested a number of planning conditions which I have considered against the advice given in paragraph 206 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Government's Planning Practice Guidance. As a result, I have amended some of them for clarity and to minimise the use of pre-commencement conditions. I have also eliminated some for the reasons set out below.
15. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. In order to protect the character and appearance of the area, I have also imposed conditions concerning the external materials to be used, details of proposed building and site levels, details of boundary treatment, the implementation of a scheme of landscaping and details of the management of the area of land to be returned to green space.
16. Also in the interests of protecting the character and appearance of the area, I agree that a condition requiring the protection of trees is necessary. However, I consider that the Council's suggested condition which seeks to prevent any lopping, topping or felling of any trees with the approval of the Council to be both unreasonable and unprecise. I have therefore amended the Council's suggested condition to require the submission of details of the trees to be retained, removed or to be lopped, topped or pruned together with the details of the measures to protect any retained trees during the construction works.
17. In order to limit the effects of the construction process on the area and the living conditions of the occupants of nearby properties, I have included a condition requiring adherence to a Construction Method Statement. However, I have incorporated the requirements of the Council's suggested conditions Nos 9 and 10, relating to the parking and manoeuvring of vehicles and the cleaning of

the wheels of vehicles, into the requirements of the Construction Method Statement. Consequently, I have deleted the suggested conditions Nos 9 and 10. In order to protect the living conditions of the occupants of nearby properties I agree that the submission of such statement needs to be secured prior to the commencement of the development.

18. In order to prevent the discharge of water on to Ashmore Lane and deal with on-site surface water, I agree that a condition requiring the submission of a surface water drainage scheme is necessary. However, I have amalgamated the Council's suggested conditions Nos 8 and 11 which both relate to surface water. In the light of the Green Belt location and the effects on openness, I agree that conditions restricting permitted development are justified in this case.

Conclusion

19. In view of my conclusion on the first main issue, the matter of very special circumstances does not fall to be considered. I therefore find that, as it would not amount to inappropriate development nor cause material harm to the openness of the Green Belt, the proposal is acceptable and in accordance with relevant guidance provided within paragraph 89 of the Framework.
20. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 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; Proposed Ground Floor Plan Drawing No 2978/1; Proposed Elevations Drawing No 2978/2; Proposed Basement Plan Drawing No 2978/3; Proposed Roof Plan Drawing No 2978/4; Elevations Showing Previous Elevations Drawing No 2978/5; Existing Site Plan Drawing No 2978/6; Proposed Block Plan Drawing No 2978/7; Site Plan Showing Previous and Proposed Drawing No 2978/8; Proposed Landscaping Plan Drawing No 2978/9.
- 3) Before the commencement of any development above the basement floor level, details of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of the proposed finished floor levels, above ordnance datum, of the ground floor and basement levels of the building and the existing and proposed site levels shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) Before development hereby permitted occurs above the proposed finished ground floor level, as approved pursuant to the requirements of condition No 3, details of a scheme of landscaping for the area within the proposed curtilage of the site and the area outside the proposed curtilage as shown on Drawing No 2978/7 as 'area to be returned as field', which shall include the materials of paved areas and other hard surfaces, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in the first planting season following the first occupation of the buildings or the substantial completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species to those originally planted.
- 6) Before the dwelling is first occupied, details of a scheme for the management of the land on the site outside the curtilage of the dwelling that is shown on Drawing No 2978/7 as 'area to be returned as field' shall have been submitted to and approved in writing by the local planning authority. The land shall thereafter be managed in accordance with the approved scheme.

- 7) No trees on the site shall be felled, lopped, topped or pruned before or during building operations until details of the trees to be retained, removed or to be lopped, topped or pruned has been submitted to and approved in writing by the local planning authority. Such details shall include:
- i) a plan showing the position of every tree on the site and on land adjacent to the site that could influence or be affected by the development, indicating which trees are to be removed;
 - ii) a schedule in relation to every tree identified listing:
 - information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and,
 - any proposed pruning, felling or other work;
 - iii) in relation to every existing tree identified to be retained on the plan referred to in i) above, details of:
 - any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and,
 - all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced);

The development thereafter shall be undertaken in accordance with the approved details and any trees removed or which die through lopping, topping or pruning shall be replaced in the next planting season with trees of such similar size and species.

- 8) Before any part of the development hereby permitted is first occupied boundary enclosures shall be provided in accordance with a scheme that has been submitted to and approved in writing by the local planning authority. Such scheme shall provide details of the design, height and location of boundary enclosures. Boundary enclosures shall be constructed in accordance with the approved scheme and shall be permanently retained thereafter.
- 9) Details of a surface water drainage system (including storage facilities where necessary) shall be submitted to and approved in writing by the local planning authority before any part of the development above the basement floor level hereby permitted is commenced. Such scheme shall ensure that surface water from the site is not discharged on to Ashmore Lane. The approved system shall be completed before any part of the development hereby permitted is first occupied and shall be permanently retained thereafter.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking and turning of vehicles of site operatives and visitors;
 - ii) loading, unloading and manoeuvring areas of plant and vehicles used in the delivery of materials;

- iii) storage areas of plant and materials used in constructing the development;
- iv) the erection and maintenance of security hoarding ;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
- viii) delivery, demolition and construction working hours.
- ix) the route construction traffic shall follow for arriving at and leaving the site, including the management of potential traffic conflicts.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting that Order with or without modification) no development shall be undertaken which falls within Class A, B, C, or E of Part 1 of Schedule 2 of that Order.
- 12) Notwithstanding the provisions of Class F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending, revoking and re-enacting that Order with or without modification), no additional hardstanding other than that shown on the approved drawing No 2978/9 shall be provided within the curtilage of the dwelling.