

Appeal Decision

Site visit made on 16 May 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 6 June 2017

Appeal Ref: APP/G5180/D/17/3172171

Elm House, 15 Church Road, Farnborough, Kent BR6 7DB

- 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 Nigel Clarke against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/00090/FULL1, dated 9 January 2017, was refused by notice dated 22 February 2017.
 - The development proposed is erection of shed and hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for erection of shed and hardstanding at Elm House, 15 Church Road, Farnborough, Kent BR6 7DB in accordance with the terms of the application, Ref DC/17/00090/FULL1, dated 9 January 2017.

Procedural Matters

2. Although the application form and decision notice describe the development as the retention of shed and hardstanding, I have altered it to erection of shed and hardstanding as this more accurately reflects the active development.
3. The Council supplied a plan showing the Green Belt boundary during the course of the appeal. Although the Council's questionnaire indicates that the site does not lie within the Green Belt, all the other evidence indicates that it does, and this is central to the reasons for refusal and consequently to my reasoning.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the Farnborough Conservation Area (CA);
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- whether the harm, by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If it is, would this amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate development

5. The appeal site comprises a grassed area separated from Elm House by a vehicular hardstanding. The evidence before me indicates that the original plot of Elm House has been subdivided to provide an additional dwelling, (No 17), and a rear vehicular access to 13 Church Road¹ (No 13). The shed is adjacent to the boundary with No 13, and the site lies within the CA and the Green Belt.
6. The site abuts the plots of Nos 13 and 17 on two sides, and bounds a school playing field on the third. The plots of Nos 13 and 17 have a distinct garden appearance, and an extensive area of tarmac associated with the school extends to within a few metres of the site's eastern boundary. Although the Council notes that the site has been cleared and laid to lawn, this is consistent with the use of land contiguous to the site.
7. The proposal comprises the retention of a shed and associated hardstanding. The shed is located some 800mm from the boundary with No 13, and has a monopitch roof ranging in height from 1.7 – 1.9 metres. The hardstanding extends beyond the shed by some 3 metres. A previous application for a larger shed was dismissed at appeal².
8. Paragraph 79 of the National Planning Policy Framework (the Framework) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraphs 89 and 90 of the Framework set out the categories of development which may be regarded as not inappropriate in the Green Belt, and sheds do not fall into any of these categories. Policy G1 of the Local Plan³ (LP) and Policy 7.16 of the London Plan⁴ outline similar restrictions. As such, I conclude that the shed and hardstanding are inappropriate development according to these national and local policies.

Openness

9. Openness in the Green Belt is generally considered to mean freedom from development. I acknowledge that the shed and hardstanding represent development and if the appeal was allowed, there would be some loss of openness. However, this is a relatively modest site surrounded by recreational facilities, garden or vehicular hardstanding. There is limited intervisibility to adjacent land, and the effect of the loss of openness is primarily limited to the site itself.
10. Consequently, I disagree with the Council's argument that if the appeal was allowed this would result in the loss of a substantial area of Green Belt open land. In the context of the appeal site, I consider there would be a minor loss of openness.

¹ Farnborough Village Conservation Area, Dwg. BAC 26

² APP/G5180/W/16/3148877

³ London Borough of Bromley, Unitary Development Plan, July 2006

⁴ The London Plan, March 2015

Character and appearance

11. The evidence before me indicates that No 17 has erected a side extension to the dwelling, and an extended summerhouse. Both lie within the Green Belt boundary⁵. The application for the side extension also included the change of use of the land, which is contiguous to the appeal site, from Green Belt to domestic garden. That this plot is now used as a garden is evident from the pergola, decking and paving which have been installed. In this context, I am unable to agree with the Council that the shed before me is incongruous, as it is entirely in keeping with the use of land in its immediate vicinity. Moreover, the officer's report states that the appeal site has been cleared and laid to lawn which gives it a residential appearance.
12. Furthermore, I disagree with the officer's report for the approved change of use for No 17⁶, which states that as that land will remain open in nature, it is not considered the change of use to domestic garden would unduly impact upon the visual amenities of the Green Belt. The pergola, paving and other domestic paraphernalia I noted in No 17's garden are generally considered to detract from openness in the context of Green Belt decision making.
13. As such, I am not satisfied that the development before me detracts from the character and appearance of the area. Although I concur that the wider area has a distinct semi-rural location, particularly to the south, the site's immediate context is domestic. Furthermore, the site's position behind, and screened from the Church Road frontage, means that it makes a negligible contribution to the wider sense of openness or rural character I noted when travelling to the site from the south. Furthermore, the SPG⁷ indicates that the key areas of open land are the churchyard, and areas of green on the northern side of the High Street. The development would have no impact on those key areas of open land.
14. Although the site lies within the CA and Elm House is a Grade II listed building, the Council's conservation officer has not raised any objection to the development as there is sufficient separation between Elm House and the appeal site. On the basis of the evidence before me and my site visit, I see no reason to disagree with that view. I am satisfied that the development would not harm the character or appearance of the CA, and thereby the objective of preserving or enhancing the CA, and the setting of the listed building, would be met.
15. Whilst the change of use to domestic garden of land adjacent to No 17 would not in itself justify allowing further development or encroachment into the Green Belt, it reinforces my observations that the plots abutting three sides of the site have a distinct domestic character. As such, I conclude that there would be no conflict with the aims of LP Policy G1, in respect of character and appearance.

Other considerations

16. The appellant has drawn my attention to the fact that the shed falls within the parameters of permitted development. I am mindful that permitted development rights are for ancillary structures within the curtilage of a

⁵ Ref DC/14/02863/FULL1 & Ref 15/05554

⁶ Appellant's Statement

⁷ Farnborough Village Conservation Area, Supplementary Guidance

dwelling, and the Inspector for the previous appeal noted that there was no dispute between the parties that the site was not within the curtilage of the appellant's dwelling.

17. However, the appellant has drawn my attention to a recent appeal where an Inspector concluded that land remote from a dwelling could be considered to be within its curtilage⁸. In that appeal, land separated from the dwelling by an informal access track was considered by the Inspector to satisfy the characteristics of curtilage as identified by the Courts⁹. Having reviewed the site layout for that appeal, I consider there are similarities in respect of distance between the plot boundaries, the availability of amenity areas adjacent to the host dwelling and the size of the appeal sites. Furthermore, the land in that appeal was laid to grass and used for storage.
18. In the light of the above, I conclude that the appeal site could be considered part of Elm House's curtilage. I appreciate that I am not cogniscent of the full policy context of that particular site, but it remains that the Inspector considered that detached land could still form part of residential curtilage, and that that was the single determinative issue.
19. In this case, there is unfettered access to the site from the hardstanding area shared by occupiers of Elm House and No 17, and there are no boundary structures alongside the vehicular access to No 13. Although ownership is clearly separate from the main dwelling, functionally and visually the site does not appear to be separate or remote from Elm House. The site has a predominantly domestic character, and the evidence before me indicates that the shed that is the subject of this appeal, is used for storage ancillary to residential use of Elm House.
20. As such, I conclude that there is a valid fall-back position in respect of permitted development under Class E of the Town and Country Planning (General Permitted Development) Order 1995, as amended.

Other matters

21. The Council is concerned that permission for the development would result in a change of use of the land from Green Belt to garden. However, as I have noted above, the plot of No 17 is of a similar size and appears to have had the same former land use¹⁰.
22. The appellant has drawn my attention to the approved works at No 17, and having reviewed the Green Belt boundary I appreciate that the side extension and summerhouse appear to be constructed inside the Green Belt. However, even if the Council has acted inconsistently in its decision making, I am obliged to determine this appeal on its merits and in the context of relevant national and local policies. As such, this has not been a determinative factor in my reasoning.
23. Interested parties have suggested that the occupiers of No 17 extended their summerhouse in order to provide privacy from Elm House. However, there are

⁸ APP/D0840/X/16/3155336

⁹ *McAlpine v SSSE* (1995) JPL B43 & *Sinclair- Lockhart's Trustees v Central Land Board* (1950) 1 P & CR 195

¹⁰ Letter dated 8 July 2014, from Mr Philip J Enticknap to London Borough of Bromley, and Dwg. Titled Proposed Site Extension, dated 10 July 2014. The land is described as a field.

more cost effective boundary treatments than a summerhouse, and I give this argument little weight.

24. The Council has concluded that the development does not have an impact on neighbouring dwellings with regard to loss of outlook and visual amenity. Based on my observations at the site visit I see no reason to disagree with the Council on this point. The highest point of the shed roof is only some 100mm higher than the fence and although the roof is visible above the boundary fencing from the habitable rooms of No 13¹¹, I am not satisfied that this represents a significant adverse effect on outlook for occupiers of No 13, as suggested.
25. It is also suggested that the shed is being used for commercial enterprises. However, whilst I appreciate that the photographs show that it has been used to store building materials, its size would limit its usefulness in this regard. Furthermore, the nature of the stored materials is not determinative to the appeal before me. I appreciate that there may be some noise associated with use of the shed, but there is noise and disturbance associated with the use of all land in a residential location.
26. It is also suggested that Elm House has sufficient ancillary structures in its enclosed garden but ancillary buildings within its curtilage are of no relevance to this appeal, and I give this argument little weight. Maintenance of the land between the shed and the boundary fence is also of no relevance to the appeal before me.

Planning Balance

27. I have found that the shed is inappropriate development in the Green Belt and would cause some minor loss of openness. I attach substantial weight to this harm. However, I have found no harm with regard to the character and appearance of the CA. I have also found that the appeal site is within the curtilage of Elm House, and I give significant weight to the existence of a viable and likely fall-back scheme.
28. Moreover, although I appreciate that the appeal site makes a contribution to an open outlook at the rear of No 13, I am not satisfied that its size and context make a meaningful contribution to the overall Green Belt aim of keeping land permanently open to prevent urban sprawl.
29. Consequently, I conclude that the harm arising from the conflict with the Framework with regard to inappropriate development is clearly outweighed by other considerations, and that the very special circumstances required to allow inappropriate development in the Green Belt do exist in this case.

Conditions

30. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. As the application is retrospective I have not found it necessary to include any of the Council's conditions.

¹¹ Photographic evidence from occupiers of No 13

Conclusion

31. For these reasons and taking all matters into account, I conclude that the development would comply with relevant national policies in respect of the Green Belt and the relevant policies of the Council's Local Plan, and that therefore the appeal should be allowed.

Amanda Blicq

INSPECTOR