
Appeal Decision

Site visit made on 21 November 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 2 January 2018

Appeal Ref: APP/G5180/W/17/3181013

Arlington House, Nash Lane, Keston BR2 6AP

- 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 Jason and Lorraine Crinnion & Beament against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/17/01931/FULL1, dated 20 April 2017, was refused by notice dated 28 June 2017.
 - The development proposed is replacement dwelling and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect on the openness of the Green Belt and the purposes of including land within it; and
 - If the development is inappropriate, 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 Inappropriate Development

3. 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 consist of the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
4. Policy G5 of the London Borough of Bromley Council's Unitary Development Plan 2006 (UDP) permits the replacement of a building in a residential use by a new dwelling as long as it does not result in a net increase in floor area. The supporting text specifies that an increase of over 10% would be considered as

material and also that basements should be included within the assessment of the scheme. I am mindful that the UDP is of some age and predates the Framework, and that Policy G5 refers specifically to a dwelling rather than a building. Also, the Framework does not include a specific threshold to assess whether a proposal is materially larger and I consider that floorspace is only one aspect when assessing the size of development. Notwithstanding this, I consider that the aims of Policy G5 are broadly consistent with the Framework in relation to replacement buildings in the Green Belt, and as such I give this Policy moderate weight.

5. The appeal site is within the Green Belt and contains a modest two storey dwelling and an outbuilding. It is proposed to replace these with a new dwelling which includes a basement. The Council states that the new dwelling would result in an increase in floorspace of approximately 55% over that of the existing dwelling and outbuilding and would therefore be materially larger. From the evidence before me, the basement would also make a significant contribution to the volume of the proposed development.
6. The appellants contend that the basement would preserve the openness of the Green Belt and should therefore not be included within the quantum of development. However, the effect on openness is not a factor referred to in the fourth bullet point of paragraph 89, which the parties accept is the exception that is relevant to this appeal. The relevant test is whether the new building *is* materially larger than the one it replaces, not whether it *looks* to be above ground level. The UDP is also explicit in specifying that basements should be included in the assessment and I consider that this reflects the provisions of the Framework.
7. It is my firm view that the basement is an integral part of the proposal and should therefore be included in the assessment of the quantum of development. I therefore conclude that the development would be materially larger than the buildings it would replace, and would therefore not fall within the relevant exception of paragraph 89 of the Framework.

Openness and Green Belt Purposes

8. The essential characteristics of Green Belts, as set out in paragraph 79 of the Framework, are their openness and permanence. A fundamental aim of Green Belt policy is to safeguard the countryside from encroachment.
9. The floorspace and height of the proposal would represent a material increase compared to the existing buildings. The increase in floorspace resulting from the proposal would be likely to result in a greater intensity of residential activity on the site, although such an increase in intensity would be limited. Notwithstanding my previous assessment of the development against paragraph 89, the extent of the development within the basement would go some way to limiting the effect of the built development on the openness of the Green Belt.
10. Considered as a whole and in the context of the existing buildings on the site, the proposal would as a result of the increase in floorspace and height reduce openness and represent encroachment into the countryside. However, I consider that the encroachment and loss of openness arising from the proposal would be limited.

Other Considerations

11. My attention has been drawn to an extant approval¹ for a replacement dwelling on the site. This planning permission represents a valid 'fallback' position in that it could be constructed should this appeal be dismissed. The appellants contend that there are significant differences between the appeal proposal and the fallback scheme, and that significant weight should be given to the comparative reduction in volume. Whilst I acknowledge that there are some differences between the designs of the fallback and appeal proposals, in my view the bulk and massing of the dwellings above ground level would be broadly similar – as indicated by the comparative elevations provided by the appellants. I note that the fallback scheme does not include a basement, but even if I had concluded that the proposed basement should be disregarded, then I consider that the impacts of the appeal and fallback proposals would be similar. Therefore, notwithstanding the consideration of the basement, the potential fallback scheme is a neutral factor in the overall planning balance.
12. In support of the proposal the appellants have referred to a recent Appeal Decision² which also considered the matter of basements within the Green Belt. I have not been provided with full details of that Decision and so cannot be sure that the circumstances are comparable to the case before me, including whether it was assessed against the same exception under paragraph 89 of the Framework. I have in any event assessed the appeal proposal on its own merits.

Overall Balance and Conclusion

13. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight must be given to the harm arising from that. The proposal would also lead to limited loss of openness and limited encroachment.
14. Compared to the extant fallback scheme, the appeal proposal would have a similar effect on openness of the Green Belt. The potential fallback scheme is therefore neutral in the overall planning balance. These other considerations do not clearly outweigh the totality of the harm identified above. Very special circumstances to justify the proposal do not therefore exist.
15. The proposal would therefore conflict with Policy G5 of the UDP to which I have given moderate weight for the reasons stated previously. The proposal would also conflict with Policy 7.16 of the London Plan and the Framework which state that inappropriate development should be refused, except in very special circumstances.
16. For the reasons given above, and having regard to all other matters raised, it is concluded that the appeal should be dismissed.

David Cross

INSPECTOR

¹ Planning Permission ref: 16/03854/FULL1

² Appeal ref: APP/G5180/W/17/3175534