
Appeal Decisions

Site visit made on 23 September 2019

by B M Campbell BA(Hons) MRTPI

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

Decision date: 7 October 2019

Appeal A: APP/K2230/X/19/3222510

Bellvue, Brimstone Lane, Meopham, DA13 0BW

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a failure to give notice within the prescribed period of a decision on an application for a certificate of lawful use or development (LDC).
 - The appeal is made by Mr A Tearle against Gravesham Borough Council.
 - The application (Ref.20180229) is dated 7 March 2018.
 - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
 - The development for which a certificate of lawful use or development is sought is erection of outbuilding to form workshop and games room.
-

Appeal B: APP/K2230/W/19/3222538

Bellvue, Brimstone Lane, Meopham, DA13 0BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr A Tearle against Gravesham Borough Council.
 - The application, Ref 20180320, is dated 29 March 2018.
 - The development proposed is demolition of the greenhouse and part of the existing outbuilding and erection of a detached single storey outbuilding to form a garage and workshop.
-

Formal Decisions

Appeal A: APP/K2230/X/19/3222510

1. The appeal is allowed and attached to this decision is a certificate of lawful use or development describing the proposed operation which is considered to be lawful.

Appeal B: APP/K2230/W/19/3222538

2. The appeal is dismissed and planning permission for the demolition of the greenhouse and part of the existing outbuilding and erection of a detached single storey outbuilding to form a garage and workshop at Bellvue, Brimstone Lane, Meopham, DA13 0BW is refused.

Appeal A

3. In its written appeal statement, the Council has stated that, if an appeal had not been lodged and it had been in a position to determine the application, then an LDC would have been issued. The Council has concluded that the

outbuilding would comprise permitted development falling within Class E of Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for which planning permission is granted by way of Article 3(1) of the Order. I find no reason to disagree and therefore allow the appeal and will issue a certificate accordingly.

Appeal B

Identification of the main issue

4. The appeal site is situated within the Green Belt, within the Kent Downs Area of Outstanding Natural Beauty (AONB), and within an area defined in the Gravesham Landscape Character Assessment as the Luddesdown Downs Landscape Character Area.
5. National policy relating to Green Belts is given in the *National Planning Policy Framework* (NPPF). Paragraphs 143 and 144 of the NPPF indicate that inappropriate development in the Green Belt should not be approved except in very special circumstances; and that such circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.
6. The main issue is, therefore, whether the development amounts to inappropriate development in the Green Belt having regard to Development Plan policies and the provisions of the NPPF and, if so, whether the potential harm by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

Inappropriate development?

7. Looking first at the Development Plan, attention is drawn to saved policy C13 of the Gravesham Local Plan First Review. This addresses extensions to dwellings in the countryside and, in relation to domestic garages and other outbuildings, indicates at criterion (vii) that they will be considered on their individual merits but will be required to be well designed, discretely sited and subservient to the scale of the main dwelling.
8. Policy CS02 of the Council's Core Strategy, in addressing scale and distribution of development, indicates that in the rural area, development outside settlements inset from the Green Belt, will be supported where it is compatible with national policies for protecting the Green Belt as well as compatible with other policies of that plan.
9. Looking then at national policy, paragraph 145 of the NPPF says the construction of new buildings in the Green Belt should be regarded as inappropriate other than specified exceptions which include (c) the extension of a building provided it does not result in a disproportionate addition over and above the size of the original building and (d) the replacement of a building provided the building is in the same use and not materially larger than the one it replaces.
10. In this case, it is intended to demolish a portion of the existing outbuildings but the low store with its shallow mono-pitched roof, the small log shed and the green house are very modest in appearance and bulk. The proposed outbuilding would have a far more imposing presence with a much greater

volume and height. It could not, therefore, satisfy the test of “not materially larger” than that which it replaces.

11. Whilst the proposed outbuilding is clearly not a physical extension to the existing dwelling, both parties are aware of the *Sevenoaks DC v SSE and Dawe* [1997] CO 1322-97 judgement wherein it was accepted that the detached garage in that case was a normal domestic adjunct, capable of being treated as an extension to the main dwelling. The case was fact specific, however, and a fact and degree judgment is to be made in each case.
12. In the current instance the property already benefits from a double garage, albeit of limited dimensions, which is to be retained. The proposed building would add another two garages and a workshop within a substantial building rising to 5.7m to its ridge. As an addition to the existing detached garage, and having regard to its overall mass, scale and distance from the main dwelling of over 17m; I find as a matter of fact and degree that it cannot be regarded as an extension to the house but rather comprises a separate building of substance in its own right.
13. The proposed building does not, therefore, fall within any of the exceptions of NPPF paragraph 145 and is inappropriate development applying national policy and Core Strategy policy CS02. With regard to saved Local Plan policy C13, this does not say that garages and outbuildings will necessarily be accepted but rather that proposals will be considered on their merits. It seems to me that matters of mass, scale and distance from the host dwelling, as well as whether other outbuildings are available, and compatibility with other planning policies (national and local) must all be relevant. Thus, for the reasons given I consider that in applying this policy, the proposal would also be assessed as amounting to inappropriate development in the Green Belt.

Harm to the Green Belt

14. Paragraph 143 of the NPPF says inappropriate development in the Green Belt is by definition harmful. In addition to this harm by definition, the excessive height and bulk of the proposed building would result in a material loss of openness, an essential characteristic of Green Belts. This harm would be exacerbated by the very remote location of the property where built development is sparse; by the prominent position of the building closer to the public right of way to the front of the property than the existing outbuildings; and by the degree of separation from the host building thereby increasing the spread of built development across the site. Whilst there are existing outbuildings close to the site of the proposal these are far more modest in size and appearance and do not provide justification for a much more imposing and intrusive building in both mass and scale.
15. With regard to the purposes of including land within the Green Belt as set out at paragraph 134 of the NPPF, purpose (c) is to assist in safeguarding the countryside from encroachment. The appeal site is not excluded from the Green Belt and, as an existing residential property, it would be reasonable to expect a degree of encroachment from the dwelling itself and from associated accoutrements such as residential paraphernalia, a cultivated garden and some outbuildings. However, an increase in the spread of built development across the site, especially of the size proposed here, would unacceptably add to the urbanising intrusion and thus would conflict with the purpose of safeguarding the countryside from encroachment.

16. In addition to harm by definition, therefore, I also find harm to the openness of the Green Belt and to one of the purposes of including land in the Green Belt.

Other harm

17. Whilst, as is to be expected, the appeal site is domestic in nature, the limited amount of development on it restricts its impact on the character and appearance of the natural landscape within which it sits. As in the reasoning above, the size and mass of the building proposed, together with its distance from the host building, would unacceptably increase the developed nature of the overall site. As such it would exacerbate the visual intrusion from built development and erode the largely undeveloped nature of the local environment within which it sits. As such it would not accord with the primary purpose of the AONB designation to conserve and enhance the natural beauty of the landscape nor the stated aim for Luddesdown Downs Landscape Character Area in the Gravesham Landscape Character Assessment to maintain the character of sparse and distinctive built development.
18. In failing to conserve the landscape character of the area the proposal conflicts with planning policies aimed at landscape protection, in particular Core Strategy policy CS12.

Other considerations

19. Whilst there are other buildings close to the location for the proposed building and an existing hardstanding for vehicles, the existing buildings are much more modest in scale and, in any event, all bar the garage is to be demolished. I appreciate that the existing garage is limited in size and also note that the pitch of the roof on the proposed building has been chosen to match the slopes on the main dwelling. However, in my view neither of those matters is sufficient to warrant a building of the size proposed with a ridge some 5.7m high.
20. The Appellant says that the proposal in Appeal A represents a fallback but I do not know the likelihood of that building being constructed in the event that this appeal fails. Be that as it may, in my view, the building the subject of Appeal A would be less harmful than that the subject of Appeal B albeit that it would be longer and wider. It would be sited close to and tucked behind the host building and would be much lower in height rising only to 4m to ridge. The combination of its more discreet siting and lower mass would result in far less intrusion and thus it would be less harmful to the Green Belt, countryside and landscape than the current proposal. The existence of the fallback does not provide justification for development which would be more harmful.

The planning balance and conclusion

21. Paragraph 146 of the NPPF says substantial weight is to be given to any harm to the Green Belt and I also give substantial weight to the landscape harm given that the AONB has the highest status of protection in relation to conserving and enhancing landscape and scenic beauty (para.172 of the NPPF).
22. I give little weight to the fallback which I have found to be less harmful than the building proposed; and little weight to the proposed demolition, to the need for a larger garage, and to the desire to match the roof slope of the house – none of which justifies an outbuilding of the scale proposed. I have taken into account all other matters raised in support but find that none, either

individually or cumulatively, clearly outweighs the harm identified so as to amount to the very special circumstances necessary to justify inappropriate development in the Green Belt. Neither do I find any considerations sufficient to outweigh the conflict with the policies of the Development Plan identified or to indicate that the proposals should be determined otherwise than in accordance with the provisions of the Development Plan.

23. The appeal fails.

B M Campbell

Inspector

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 7 March 2018 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The operation comprises development within the meaning of s55 of the Act for which planning permission is granted by Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015. Article 3(1) grants permission for classes of development described as permitted development in Schedule 2 to the Order. The proposed operation falls within Class E of Part 1 of Schedule 2.

Signed

B M Campbell

Inspector

Date 7 October 2019

Reference: APP/K2230/X/19/3222510

First Schedule

Erection of outbuilding to form workshop and games room as shown on drawing numbers:

BW-18-J082-P01 rev 3	site layout, site location
BW-18-J082-P02 rev 3	comparison block plan
BW-18-J082-P03 rev 3	proposed plans, proposed elevation
BW-18-J082-P03 rev 3	site dimensions plan

Second Schedule

Land at Bellvue, Brimstone Lane, Meopham, DA13 0BW

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operation described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operation described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.



Plan

This is the plan referred to in the Lawful Development Certificate dated: 7 October 2019

by B M Campbell BA(Hons) MRTPI

Land at Bellvue, Brimstone Lane, Meopham, DA13 0BW

Reference: APP/K2230/X/19/3222510

Do not scale

