



Appeal Decision

Site visit made on 21 October 2019 by Thomas Courtney BA(Hons) MA

Decision by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2019

Appeal Ref: APP/G5180/D/19/3234695

Uphill, Viewlands Avenue, Westerham Hill, Westerham, Kent TN16 2JE

- 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 David & Claire Thomas against the decision of the London Borough of Bromley.
 - The application Ref DC/19/00925/FULL6, dated 22 February 2019, was refused by notice dated 15 May 2019.
 - The development is the removal of an existing structure and construction of a conservatory to the rear of the property contained in existing wall structures.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The application is submitted retrospectively and during the site visit I observed that most of the works have been carried out. Accordingly, I have considered the development on this basis.

Main Issues

4. The main issues are:
 - whether the development is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
 - the effect of the development on the openness of the Green Belt; and
 - if the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.
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Reasons for the Recommendation

Whether the development is inappropriate development

5. The appeal site comprises a 1.5 storey bungalow known as 'Uphill', set within a large triangular plot at the end of a cul-de-sac, on the northern side of Viewlands Avenue. Mature trees and bushes along the eastern boundary separate the appeal site from open countryside to the north east, east and south east. A public footpath runs along this same boundary.
6. Paragraph 145 of the NPPF states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One exception is 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. Policies 49 and 51 of the London Borough of Bromley Local Plan (the 'local plan') are broadly consistent with the NPPF in that extensions and alterations to a dwellinghouse in the Green Belt will only be permitted if the net increase in the floor area over that of the original dwellinghouse is no more than 10%.
8. The development consists of a rear conservatory with a flat roof, constructed to the rear of the property on an area of previously existing patio. It has floor to ceiling glazed sliding doors and a large central roof light. It lies within a 'niche' in the building between the lounge, kitchen and boiler room. The Council has highlighted that the dwelling has already been subject to disproportionate extensions and the development is in addition to this. A previous Inspector¹ also concluded that the property had been extended by more than 10%. The appellant does not dispute this. The provision of the conservatory therefore conflicts with policies 49 and 51 as described above.
9. On the basis that the extension results in disproportionate additions over and above the size of the original dwelling, I therefore find the conservatory is inappropriate development in the Green Belt.

Openness

10. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. The additional built form and volume as a result of the formation of the conservatory materially impacts on openness in a spatial aspect, albeit this impact is limited. The conservatory, being single-storey, sited to the rear of the property, within a 'niche' in the building, and within heavily screened boundaries, does not visually harm openness. Nonetheless, overall there is some limited harm to openness.
11. Substantial weight should be given to any harm to the Green Belt. Development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. I therefore need to balance the other considerations against the totality of the identified harms.

Other considerations

12. The parties make reference to the aforementioned previous appeal at the site (relating to the demolition of a side/rear extension and erection of a single storey side extension) in which the Inspector considered that a bulky detached garage and shed which were positioned further away from the dwelling in a

¹ Into an appeal against the refusal of planning application Ref 08/02259/FULL6

more open part of the site could be removed in lieu of the constructed extension. The appellant suggests the removal of a climbing frame structure and playroom from the rear garden, sometime before the submission of the original application subject of this current appeal, draws parallels to this arrangement. The appellant states the removed structure was substantial, with foundations consisting of '14 tonnes of concrete' and featuring vibrant yellow slides and tubes, had a greater bulk and mass and was of a more solid construction than the metal framed and glass conservatory. It is also argued that the garden structure, by virtue of its detached position from the main building, was more visible than the constructed conservatory, which is more modest in size and is mainly subsumed into the existing building envelope. I have not been provided of any photographs or plans of this structure although, on my site visit, I observed the outline of a removed structure within the rear garden.

13. The previous inspector, when assessing the effect of the climbing frame structure on the openness of the Green Belt, considered that the play-frame garden structure was large but it was mainly open and its position and form did not result in an erosion of openness, and hence its removal would not have been a benefit. I have no evidence on which to come to a different view. In any case, as this structure has already been removed, its removal cannot be considered as a direct benefit of the development before me.
14. The appellant suggests a container within the front garden of the appeal dwelling, which I saw on my site visit, could be removed. However I have not been provided with accurate drawings and details of this, nor any substantive evidence of the length of time it has been on the site and therefore to what degree it is a permeant fixture. I therefore cannot assess to what extent its removal would be a benefit.
15. The submitted evidence refers to the existence of a fallback position in that a single storey rear extension could be erected in accordance with the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The parties accept the development itself cannot be subject to the prior approval procedure as it has already been built. In addition, the appellant concedes that an extension would need to be smaller to be able to be considered permitted development. Consequently, due to its necessarily smaller scale, any such extension would have a lesser impact on the openness of the Green Belt than the development before me, so does not lend positive weight to the appellant's case.
16. Furthermore, although the conservatory is adequately designed, ties in with the form and appearance of the main building and is not readily visible from outside the site, these factors carry very little weight.
17. The other developments referenced by the appellant are not directly comparable by virtue of the appeal property's various past extensions. In any event, each application and appeal should be determined on its individual merits, and this is the approach that I have adopted.
18. I acknowledge the applicant's personal family needs with regards to the provision of a safe space for children and additional space for dining as well as for an elderly relative, however these personal considerations do not carry significant weight.

Planning Balance and Overall Conclusion

19. I consider that the development causes harm to the Green Belt by way of its inappropriateness and to its openness, and substantial weight should be given to these harms. The other considerations advanced in support of the scheme do not clearly outweigh the substantial harm to the Green Belt. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
20. I conclude that the development conflicts with Paragraph 145(c) of the NPPF, and policies 49 and 51 of the local plan, which together aim to protect the Green Belt from inappropriate development.

Recommendation

21. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

22. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR