



Appeal Decision

Site visit made on 7 January 2020

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2020

Appeal Ref: APP/H2265/D/19/3236885

Bewley Lane House, Bewley Lane, Plaxtol, Sevenoaks, TN15 0PS

- 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 S Paget-Brown against the decision of Tonbridge & Malling Borough Council.
 - The application Ref: TM/19/01403/FL dated 13 June 2019, was refused by notice dated 12 August 2019.
 - The development proposed is construction of a garden room extension.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Paget-Brown against Tonbridge & Malling Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal in relation to the Green Belt as follows:
 - a) 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;
 - b) the effect of the proposal on the openness of the Green Belt; and
 - c) if the proposal is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

4. Bewley Lane House is a substantial detached dwelling located on Bewley Lane. The surrounding area is predominantly fields and open countryside, apart from a couple of detached houses and farm buildings a little further west along Bewley Lane. The site is located within the Metropolitan Green Belt and within the Kent Downs Area of Outstanding Natural Beauty (AONB).

Whether inappropriate development in the Green Belt

5. The construction of new buildings should be regarded as inappropriate in the Green Belt subject to a limited number of exceptions as set out in paragraph 145 of the National Planning Policy Framework (the Framework). One of the exceptions is c) 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. Neither the Framework nor the local plan define 'disproportionate'. It is assessed on a case by case basis, taking into account factors such as footprint, floor space, volume, mass and bulk.
6. The original dwelling was a modestly sized two-storey property which occupied a small footprint. The proposed extension would be a single-storey glazed garden room, positioned at the rear of the property. When considered in isolation, the proposed extension would be modest in size, with a footprint of 24.2 sq.m. However, the extension must be considered in combination with what is already on the site. The original dwelling has already been significantly extended. These extensions have in combination more than doubled the size of the original building. The appeal proposal would, when considered cumulatively with those previous extensions, amount to a disproportionate enlargement to the original building.
7. As such, the extension would be inappropriate development in the Green Belt. Such development is, by definition, harmful and is contrary to the Framework and Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 2007 (the Core Strategy).

Effect on the openness of the Green Belt

8. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. Openness is the absence of development and has both spatial and visual effects.
9. In spatial terms, the proposed extension would increase the footprint of the building. The additional footprint of development would cause a loss of openness, even though the visual consequences of that loss would be minimal.
10. I conclude that the appeal proposal would result in a small loss of openness thereby causing limited harm to the Green Belt. Therefore, it would be contrary to the objectives of the Framework.

Other considerations

11. The appellant has obtained a Lawful Development Certificate (LDC)¹ for a detached single storey outbuilding. This would be positioned within the elevated side garden, upslope of the main house and accessed via an external staircase. The outbuilding would have a floor space of 40.5 sq.m. It would be larger and taller than the proposed extension. Due to its size and prominent position, I accept it would have a greater impact on the openness of the Green Belt than the appeal proposal.
12. The appellant requires additional space for painting and drawing, studying and planting and tending of plants. He has indicated that this accommodation need

¹ Council Ref: 19/00520/LDP

- could be met by either the LDC scheme or the appeal proposal although his preference is for the latter. He has stated that he would be willing to forego the separate outbuilding should permission be granted for the appeal proposal.
13. I accept that similar activities could be undertaken either in the extension or the outbuilding. However, it seems to me that the outbuilding would be significantly less convenient than as part of the house given the physical separation of the two. Furthermore, the appellant or other future occupants, would be likely to find an extension would provide accommodation that could be used for a greater variety of activities than an outbuilding. This leads me to conclude that the LDC scheme would be a less attractive option than the appeal proposal.
 14. Additionally, the prominence of the outbuilding within the elevated garden would both harm the character and appearance of the appeal property and would disrupt outlook from the windows in the west elevation of the house. On this basis, I consider the likelihood of the LDC scheme being implemented is far from certain. I am therefore not persuaded that there is greater than a theoretical possibility of this 'fallback' alternative option being implemented. In coming to this view, I have had regard to the Court of Appeal judgement *Mansell vs Tonbridge and Malling Borough Council 2017*². Consequently, I attach limited weight to the LDC scheme as an alternative to the proposed extension.
 15. I have had regard to a number of planning permissions and appeal schemes where a fallback position has carried weight. Only two of these schemes, which were allowed on appeal³, proposed outbuildings and could potentially be comparable to the appeal before me. I do not have the full details of these schemes. However, in those cases the Inspectors considered the nature of the alternative and only gave them significant weight when they concluded that there was a realistic prospect of implementation. I have taken a similar approach here.
 16. The appellant has indicated that he would be willing to relinquish permitted development rights for any additional extensions or buildings. This would restrict further buildings from being constructed within the appeal site, therefore protecting the openness of the Green Belt. This is a factor in the scheme's favour.
 17. However, the removal of permitted development rights cannot be done retrospectively. Given the location of the LDC scheme, which is entirely separate from the proposed extension, there is nothing that would prevent implementation of both schemes should permission be granted. In the absence of a mechanism to prevent the erection of the outbuilding which has the LDC, I cannot be certain that both schemes would not be implemented. This factor weighs against the scheme.
 18. The appeal site lies within the Kent Downs AONB, an area designated for its landscape and scenic beauty. Due to the position of the extension, to the rear of the house and enclosed within a garden area, I am satisfied that the

² Michael Mansell vs Tonbridge and Malling Borough Council & others [2017] EWCA Civ 1314, [2016] EWHC 2832 (Admin)

³ APP/A0665/D/15/3134313 and APP/U1240/D/18/3216544

proposal would not be harmful given its siting away from public viewpoints. This is therefore a neutral factor in the balance.

The Green Belt Balance

19. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause limited harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 144 of the Framework.
20. There are no other considerations in favour of the proposal that clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

21. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael Pipkin

INSPECTOR