



Appeal Decision

Site visit made on 20 October 2020

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th December 2020

Appeal Ref: APP/G5180/W/20/3244195

The Stables, Eynsford Close, Petts Wood, Orpington BR5 1DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Charles and Shirley Cookman against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/00/01198/RECON, dated 18 July 2019, was refused by notice dated 14 October 2019.
 - The application sought planning permission for minor material amendment under Section 73 of the Town and County Planning Act 1990 to allow a variation of conditions 1 and 7 of permission ref: 00/01198/OUT (and the details approved under 02/01148/DET) for the addition of two rear dormers and alterations to the position of window and door openings to the proposed dwelling without complying with conditions attached to planning permission Ref 00/01198/OUT, dated 14 March 2001.
 - The conditions in dispute are Nos 1 and 7 which state that: 1) Approval of the details of the design and external appearance of the buildings and the landscaping of the site shall be obtained from the local planning authority in writing before any development is commenced; and 7) The new dwelling hereby permitted shall be limited to a single storey and shall not cover an area larger than that shown on drg. no. 579/7.
 - The reasons given for the conditions are: in the interests of amenity and safety.
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Decision

1. The appeal is allowed and planning permission is granted for minor material amendment under Section 73 of the Town and County Planning Act 1990 to allow a variation of conditions 1 and 7 of permission ref: 00/01198/OUT (and the details approved under 02/01148/DET) for the addition of two rear dormers and alterations to the position of window and door openings to the proposed dwelling without complying with conditions attached to planning permission Ref 00/01198/OUT, dated 14 March 2001 at The Stables, Eynsford Close, Petts Wood, Orpington BR5 1DP in accordance with the terms of the application Ref DC/00/01198/RECON, dated 18 July 2019, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

Main Issues

2. The main issues are:
 - whether the proposal would represent inappropriate development in the Green Belt;
 - the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it; and
 - if the proposed 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 proposal.

Reasons

3. The appeal site is a small open paddock area situated close to a stable block. It is fenced-off from a much larger open field/paddock area located behind it and a gravelled area to its front and side. Whilst on site I observed that two caravans, a horse lorry/trailer and three other vehicles parked there. Behind this area is a horse training area which has an electricity sub-station adjacent to it and residential properties to its rear and side. The wider site is largely enclosed by high mature trees which separate it from the Petts Wood recreation ground on one side and the junior school and residential properties on the other.

Whether inappropriate development

4. The National Planning Policy Framework (the Framework) at paragraph 143 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings is regarded as inappropriate in the Green Belt save for several specified exceptions under paragraph 145 of the Framework.
5. Policy 49 of the adopted Bromley Local Plan 2019 (BLP) states that permission will not be given for inappropriate development in the Green Belt unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. It also states that the construction of new buildings in the Green Belt will be inappropriate unless it is for a specified purpose. Consequently, given the criteria contained within it, I consider Policy 49 to be broadly consistent with the Framework.
6. Notwithstanding the extant permission for a dwelling on the appeal site, as that dwelling has not been constructed I consider that the proposal would not be an extension or alteration of an existing building or indeed the replacement of a building, but would rather be a new building in the Green Belt even though it is only proposed to make a minor material amendment to the already approved plans.
7. Consequently, in the context of the above I consider that the proposal would not meet any of the exceptions under national policy and that it would therefore be inappropriate development within the Green Belt.

Openness and Green Belt purposes

8. As set out in the Framework, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open as set out in Paragraph 133. Given the small scale of the proposal, and its location, I do not consider that it would have a significant adverse impact on the Green Belt purpose of assisting in safeguarding the countryside from encroachment.
9. The proposal would be located on an open paddock where there is currently no development. In simple spatial terms, this would have a clear and demonstrable effect on the openness of the Green Belt by introducing development to land which is presently permanently open. The construction of a detached dwelling on the appeal site would therefore bring about built development where there is presently none. However, given the fallback position of a single storey dwelling already having been approved on the appeal site I have to consider the impact of the proposal on the openness of the Green Belt within that context.

10. Based on the submitted plans the proposed dwelling would in essence be the same as the already approved one except for the addition of two dormer windows on the rear elevation, two rooflights on the front roofslope, a larger folding patio door on the western side elevation, two windows on the eastern side elevation, and the removal of the patio door from and the repositioning and re-sizing of the of the remaining door and windows on the rear elevation. It would also not have a chimney stack. However, given that it would be a new dwelling on currently open land in the Green Belt, it would by definition have a harmful impact on its openness nonetheless.
11. Even so, when considered in the context of the extant permission, the roof ridge height and the height of the eaves would not be higher, and it would also not have a chimney stack. As a result, I consider that any increased spatial reduction of openness and resultant harm that the proposal would cause to be limited in comparison. Additionally, given its location, the proposal would also have an adverse visual impact thereby similarly reducing and harming openness but for similar reasons I consider that this would be to a limited degree in this regard also.
12. I therefore conclude that the proposed development would lead to a loss of openness in conflict with paragraph 133 of the Framework. The proposal would therefore also conflict with Policy 49 of the BLP which aims to ensure that development proposals are appropriate in the Green Belt.

Other considerations

13. In support of the proposal the appellant has advanced a number of considerations such as the need for a permanent presence on site to ensure its security and also that the proposal is required to house a family member, and their partner and children, who are currently living in temporary accommodation at the appeal site. This family member would also be actively involved in the running of the on-site equestrian business.
14. At the time of my visit, I observed that there were two medium sized caravans and one larger horse lorry/trailer at the appeal site. These two caravans appeared to be in use. I was unable to determine whether or not the horse lorry/trailer was in use. While I acknowledge that this represents but a snapshot in time, I am satisfied that there is some temporary residential use at the site that appears to be connected to the existing equestrian use.
15. I acknowledge that the appellants have not yet disposed of their property at no. 7 Kydbrooke Close. However, this does not necessarily mean that they would not do so at some point in future or indeed that it would be suitable or of a sufficient size to accommodate their granddaughter and her family.
16. Consequently, I find that these considerations weigh in favour of the proposal.

Conditions

17. I have undertaken some minor editing and rationalisation of the conditions proposed by the Local Planning Authority (LPA) in the interests of precision and clarity and bearing in mind paragraph 55 of the Framework. In addition to the standard implementation condition, I have also imposed a necessary condition to define the plans with which the scheme should accord in the interest of precision.
18. I have imposed a condition relating to the submission of a surface water drainage scheme in the interests of the living conditions of existing and future occupiers as well as in the interest of minimising flood risk.

19. In the interests of the character and appearance of the area I have imposed conditions requiring the submission and approval of a landscaping scheme and the details of external material finishes and finished floor levels.
20. In the interest of highway safety, I have imposed a necessary condition requiring the submission of full details of on-site parking provision and the demonstration of safe vehicular manoeuvrability into and out of the site.
21. In order to protect the living conditions of occupiers of neighbouring properties and ensure highway safety I have attached a condition in respect of the submission of a Construction Method Statement. However, I have omitted the requirement for wheel and underbody washing facilities for construction vehicles originally suggested by the LPA as I do not consider it would be reasonable or necessary to impose it given the scale of the development proposed. For a similar reason I have also not imposed the separate additional conditions requiring vehicular wash down facilities or the approval of details for the storage of refuse and recyclable materials that were suggested by the LPA.

Planning balance and conclusion

22. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. Consequently, other considerations weighing in favour of the development must clearly outweigh any harm.
23. In terms of the harm, the proposal would reduce the openness of the Green Belt, both spatially and visually to a limited degree. Consequently, it would conflict with the adopted development plan and national policy in this regard.
24. In terms of the benefits, the proposal would provide a residential presence on the site to ensure 24-hour security for the established equestrian use, and also provide much needed accommodation for family members with a direct connection to that use.
25. Even though the previous mobile home on the site has been removed, given the presence of temporary residential accommodation on the site, the need for a 24hr presence on site for security purposes and its planning history, including the previous appeal decision (Ref APP/G5180/A/00/1054737) and subsequent decision made by the local planning authority (02/01148/DET), I find that the principle of lawful equestrian use with a permanent residential element on the appeal site has been firmly established.
26. Consequently, given the proposal's limited harm to the openness of the Green Belt I also find that the other considerations in this case clearly outweigh the harm that I have identified. Accordingly, looking at the case as a whole, I consider that very special circumstances exist which justify the proposed development.
27. Therefore, for the reasons set out above I conclude that the appeal should be allowed.

C Coyne

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and Existing Block Plan Drawing No 1; Proposed Block Plan Drawing No 2; Proposed Ground Floor Plan Drawing No 3; Proposed First Floor Plan Drawing No 4; Proposed Elevations Drawing No 5.
- 3) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 4) No development above foundation level shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No development above foundation level shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development above foundation level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) No development above foundation level shall take place until details and samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 9) The dwelling hereby permitted shall not be occupied until details of parking spaces and/or garages have been submitted to and approved by the local planning authority in writing. These should also include sufficient space to be laid out for vehicles to turn so that they may enter and leave the site in forward gear. These spaces shall thereafter be kept available at all times for the parking of vehicles.