
Appeal Decision

Site visit made on 11 December 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 January 2021

Appeal Ref: APP/H2265/D/20/3260302

Elpatos, Pilgrims Way, Trottisccliffe, West Malling, ME19 5EP

- 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 and Mrs Johnson against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/20/01590/FL, dated 23 July 2020, was refused by notice dated 15 September 2020.
 - The development proposed is single storey walkway connection and conversion of garage to residential accommodation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The site is located in the Green Belt so the main issues are:
 - i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - ii) The effect on the openness of the Green Belt; and
 - iii) Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. Policy CP3 of the Tonbridge and Malling Core Strategy (2007) (Core Strategy) states that National Green Belt policy will be applied to new development in this part of the Borough. This is currently set out in the Framework, which states that new buildings are inappropriate in the Green Belt. However, one exception to this 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.
4. The planning history set out in the officer report indicates that the host building was originally a much smaller bungalow than it is at present. It has been extended over the years to become wider, to expand to the rear, and enlarged

at roof level. Outbuildings have also been added over the course of time, including a brick-built side garage set well away from the house.

5. The glass link extension, whilst partially transparent, occupies around 17 sqm¹ of floor area. Because of its size, it would not be an insignificant structure. Furthermore, the impact of its construction would be to merge the side garage into the structure of the main residential building. This would significantly increase the overall width of the house. When considered in combination with previous extensions this would be to such a degree that, in my judgement, it would represent a disproportionate addition to the original building. The proposal does not therefore meet the test set out in the relevant exception to inappropriate development.
6. None of the other exceptions to inappropriate development are relevant. The proposal therefore amounts to inappropriate development in the Green Belt. Such development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Openness

7. Whilst glazing is extensively used, there are also a number of solid sections including the green roof. The increase in built form and loss of open, undeveloped space would be clearly perceptible. The impact on views from the front of the property would be negligible due to the retained existing wall between the host building and the garage. However, when viewed from the rear the existing building would appear noticeably bigger, as a consequence of the proposal.
8. Consequently, there would be a slight loss of openness to the Green Belt, which the site and immediate surrounding area fall within, due to the additional visual encroachment of built form on to land that is currently open. As this is only a small extension, I attach limited weight to the harm that would arise in consequence.

Other Considerations

9. The link section would facilitate the creation a bedroom at ground floor level. This meets the needs of the existing occupants, enabling them to remain in the property. There is a health-related justification for the proposal, set out in the design and access statement. However, this is a well sized existing house. It has not been adequately demonstrated why this need could not be fulfilled by the reconfiguration of the existing living space in the property. This argument attracts limited weight.
10. Another argument advanced is that permitted development rights could be exercised as a fall back, resulting in development in other parts of the garden that, it is suggested, would potentially lead to more harm to the Green Belt. However, whilst conditions could be used to remove permitted development rights, there is no method before me of preventing them from being exercised prior to the commencement of development. This could, for instance, be through the construction of an outbuilding away from the site of the proposed extension. The fact that such a building would obscure the view from the extension cannot be relied upon to prevent such development from occurring. I

¹ Page 18 of the design and access statement.

have had regard to the various arguments advanced on this point, but none amount to a convincing justification for the proposal.

11. The fact that nationally granted permitted development rights exist and apply in the Green Belt is not alone sufficient to justify the proposal. On this occasion planning permission is required, and the policy tests set out in the Framework must therefore be applied to the proposed development.
12. There was a previous appeal decision on the site. Whilst a different form of development, this was found to be inappropriate development in the Green Belt resulting in a loss of openness. It does not add any weight in support of the proposal before me.
13. The appellant contends that the proposal does not conflict with the five purposes of including land within the Green Belt, as set out in paragraph 134 of the Framework. I agree with that assessment and note that it was also the conclusion of the previous planning Inspector². However, there is conflict with the fundamental aim of Green Belt policy, which is to keep land permanently open. This does not justify the proposal, given the harm identified.

Green Belt Balance and Conclusion

14. The proposal is inappropriate development in the Green Belt and substantial weight should be given to this harm. The proposal would also result in a loss of openness to the Green Belt, to which I attach limited weight. There are no other considerations that would constitute the very special circumstances necessary to justify inappropriate development in the Green Belt. The proposal conflicts with policy CP3 of the Core Strategy and the Framework which seek, amongst other things, to avoid inappropriate development in the Green Belt and preserve its openness.
15. The proposal conflicts with the development plan and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR

² Paragraph 9 of decision APP/H2265/D/19/3225497