The Planning Inspectorate

Appeal Decision

Site visit made on 1 December 2020 by Thomas Courtney BA(Hons) MA

Decision by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal Ref: APP/G5180/D/20/3257580
Old Farmhouse, Luxted Road, Downe, Orpington, BR6 7JS

- 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 Ms D. Jeff against the decision of the London Borough of Bromley Council.
- The application Ref DC/20/01309/FULL6, dated 6 April 2020, was refused by notice dated 27 July 2020.
- The development proposed is the erection of detached garage.

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.

Main Issues

3. The main parties agree that the detached garage would represent inappropriate development in the Green Belt as it would involve the construction of a new building, and does not constitute any of the exceptions to that as identified in paragraph 145 of the National Planning Policy Framework or as set out in policy 51 of the Bromley Local Plan (the 'local plan').

4. The main issues therefore are:

    - The effect of the proposal on the openness of the Green Belt; and
    - whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons for the Recommendation

Openness

5. The proposal would comprise the erection of a 4-metre-high detached double garage with a pitched roof within the existing rear garden, to the north-east of the main house.

6. Openness is identified in the NPPF as one of the Green Belt's essential characteristics. The additional built form in an undeveloped part of the curtilage

would materially impact on openness in a spatial aspect. Furthermore, the considerable height of the roof and overall bulk of the building, plus its position adjacent to the eastern boundary, means the proposal would also have a greater visual impact on the openness of the Green Belt when seen from the access road off Luxted Road, surrounding buildings and from the open countryside to the north of the site. Whilst the proposed garage would sit amongst a group of trees which would offer some degree of screening, it would still be easily visible especially during the winter months.

7. Notwithstanding the fact that the proposal has been sympathetically designed with a barn-like appearance, traditional side hung timber doors, and appropriate materials, the spatial and visual impact on openness resulting from its excessive height, size, scale and bulk would result in significant harm to the Green Belt.

8. 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 that harm.

Other considerations

9. The appellant has set out a case for very special circumstances which bases itself on a fall-back position achieved through the grant of a Lawful Development Certificate (LDC) in March 2020 for three single-storey outbuildings within the rear garden (ref DC/20/00305/PLUD).

10. The appellant reasons that the proposal would have a lesser impact on openness as compared to the three outbuildings granted through the permitted development process. The Council advise these outbuildings would be 1.5m shorter than the proposed garage, which the appellant does not dispute. Consequently, in my view, they would not appear as prominent and visible as the proposed 4-metre-high garage.

11. Furthermore, the appellant states that the total combined footprint for the three outbuildings would be 60.7 sqm whilst the proposed garage would have a smaller footprint at 51.58 sqm. This is a minimal reduction and although the appellant opines that the garage would therefore have a lesser impact on openness, this view fails to take into account the larger height and bulk of the proposal compared to the previous scheme. Overall therefore the impact of the proposal on openness would not be significantly better than that resulting from the development subject of the LDC.

12. Notwithstanding this, the appellant has prepared a planning obligation which seeks to prevent the implementation of the LDC and also remove permitted development rights allowed under Classes A, B, C, D and E of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). Whilst I accept the twofold aims of the undertaking could be considerably beneficial in Green Belt terms, the obligation before me is incomplete as it is not dated. It therefore carries no weight. Moreover, due to the way that it is drafted, clause 5.1 states that the removal of permitted development rights for future development and the withdrawal of the extant LDC take effect on the date of the obligation and are not dependent on the granting of planning permission. As such, if the agreement had already been dated (prior to this

appeal), the covenants would already have taken effect and so could not be considered as an alternative fall back in this appeal.

13. Alternatively, a condition which sought to remove permitted development rights would only take effect upon the implementation of the planning permission so would not prevent the provision of additional outbuildings until that point.

14. The letters of support from neighbours are noted, particularly in respect of the improved outlook the current proposal would afford them, compared against the consented outbuildings. Nonetheless, as set out there is no mechanism before me to prevent the implementation of the LDC.

Other Matters

15. My attention was drawn to a recent development at Kinross, North End Lane, Downe where an Inspector considered that a planning obligation which removed permitted development rights could overcome concerns regarding the impact of the proposal on the Green Belt. I agree that in principle that may be possible. However in this case, for the reasons set out above, the undertaking provided could not achieve that. Furthermore the Inspector in the Kinross case found that the proposal would not have a harmful effect on the openness of the Green Belt. That differs markedly from this current appeal.

Planning Balance and Overall Conclusion

16. 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. There are no benefits which would clearly outweigh those harms.

17. I conclude therefore there are no very special circumstances to justify the development. Consequently, the development conflicts with the NPPF and Policy 51 of the local plan which seek to protect the Green Belt from inappropriate development.

Recommendation

18. 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

19. 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