
Appeal Decision

Site visit made on 20 July 2021

by Mr C J Tivey BSc (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/G5180/W/20/3263912

15 Cranworth Cottages, Leaves Green Road, Keston BR2 6DB

- 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 C Philippou against the decision of the London Borough of Bromley Council.
 - The application Ref. DC/20/02180/FULL1, dated 15 June 2020, was refused by notice dated 5 November 2020.
 - The development proposed is for conversion of property to form a 5 bedroom HMO.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit the appeal building had been extended with a single storey rear extension up to 6m deep and converted into an HMO with 6no rooms, contrary to the proposed ground floor layout and rear elevation plans before me. In lieu of the communal lounge an additional unit (no3) had been created and rather than having a pair of patio doors to its rear, an additional window had been installed to match that serving unit no2. I note from the submissions that it is the appellant's intention to revert the property back into a 5no bedroom HMO and as it falls to me to determine the appeal on the description of development and the proposed drawings, I have assessed it on this basis.
3. On 20 July 2021, an update to the National Planning Policy Framework (the 'Framework') was published. My decision reflects this, having provided the main parties an opportunity to comment over any implications this might have for their respective cases.

Main Issues

4. The main issues are:
 1. Whether the proposal would be inappropriate development in the Green Belt, having regard to the Development Plan and the National Planning Policy Framework (the 'Framework') and the effect of the proposal on the openness of the Green Belt; and
 2. The effect of the proposal upon the character and appearance of the area;
 3. The effect of the appeal proposal upon the living conditions of the occupants of neighbouring residential properties, with specific reference to outlook; and

4. If the proposal would be inappropriate development, 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 it.

Reasons

Whether Inappropriate Development

5. Policy 51 of the London Borough of Bromley Local Plan (2019) (LP) stipulates that extensions or alterations to dwellinghouses in the Green Belt will only be permitted if: a) the net increase in the floor area over that of the original dwellinghouse is no more than 10%, as ascertained by external measurement; and b) their size, siting, materials and design do not harm visual amenities or the open or rural character of the locality; and c) the development does not result in a significant detrimental change in the overall form, bulk or character of the original dwellinghouse.
6. The above policy predates the Framework, as well as its previous February 2019 iteration, but nonetheless it forms part of the Development Plan pursuant to Section 38 (6) of the Planning and Compulsory Purchase Act 2004. The Framework's test set out within its paragraph 148.c) is less restrictive in stating that the construction of new buildings should be regarded as inappropriate in the Green Belt with one of the exceptions being that 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. However, it is not disputed between the parties that the extension, when combined with previous additions to the subject building, would exceed 10% of the original dwellinghouse's floor area. Therefore the proposal would amount to disproportionate additions over and above the size of the original building and consequently it would be inappropriate development, harmful to the openness of the Green Belt and contrary to LP Policy 51.

Character and Appearance

8. I am aware that prior to the commencement of works to convert no15 into an HMO, the Council had issued a notice that Prior Approval was not required for the construction of a rear extension up to 6m depth, of a similar design to that currently proposed. It is accepted by the appellant that the extension that has been built could not be considered to be Permitted Development (PD), due to the fact that it was not implemented prior to the conversion of the house into an HMO.
9. As this appeal relates to the refusal of an application for full planning permission, it is necessary to have regard to the development plan and all material considerations. I accept that the extension, when combined with the previous single storey rear extension, equates to approximately the same depth as the main range of no15, however by virtue of its flat roof design, I consider that it would appear fairly subordinate in form to the host dwelling. Taking into account its rearward location and the screening both within the rear garden scene and along the boundary shared with Fintry on Downe Road, the impact upon the character and appearance of the area would be slight.
10. From this point of view I consider that the proposal complies with LP Policy 6 which requires the design and layout of proposals for the alteration or enlargement of residential properties to, amongst other things, ensure that the scale, form and

materials of construction should respect or complement those of the host dwelling and be compatible with development in the surrounding area.

Living Conditions

11. I note that no objections were received by the Council from third parties regarding the Prior Approval extension application and whilst the total depth is such that it would not amount to a proportionate addition over and above the size of the original building, in totality its single storey flat roof construction minimises a loss of outlook from both immediately adjoining dwellings.
12. On balance therefore, I find that the proposal complies with LP Policy 37 in that it would respect the amenity of occupiers of neighbouring buildings.

Other Considerations and Green Belt Balance

13. I accept that the general scale of the single storey rear extension that has been built is similar to that approved under the 2020 Prior Approval decision; however what has been built does not have the benefit of planning permission. The internal layout and resultant fenestration proposed differ from what was previously approved: a pair of French doors and fixed lights each side to serve a new family/day room are shown to be replaced by a window serving HMO unit no2 and patio doors serving a communal lounge area. Therefore, I disagree that externally the building would be no different had the 2020 consent been constructed as approved.
14. I accept that the property could be converted back to a dwellinghouse, which would continue to have the right to a larger extension pursuant to Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), that is largely hypothetical, bearing in mind the appellant's clear intention to create a HMO. Therefore, as a fall-back position I give it very limited weight.
15. The Framework in paragraph 148 highlights that substantial weight should be given to any harm in the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. Whilst I have found that the overall impacts of the proposal upon the character and appearance of the area and the living conditions of the occupants of neighbouring residential properties would be slight these do not outweigh the harm upon the openness of the Green Belt.
16. The proposal results in disproportionate additions over and above the size of the original building and no very special circumstances exist to justify what amounts to inappropriate development.

Conclusion

17. Having regard to the above and all other matters raised, I conclude that the appeal be dismissed.

C J Tivey

INSPECTOR