



Appeal Decision

Site visit made on 4 May 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27/05/2022

Appeal Ref: APP/G5180/D/21/3278011

Sunnyside, Berrys Green Road, Berrys Green, Westerham TN16 3AH

- 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 & Mrs T Head against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/01248/FULL6, dated 12 March 2021, was refused by notice dated 11 June 2021.
 - The development proposed is Demolition of an existing front projection, the erection of a rear extension with a first floor addition including front and rear dormers, alongside interior reconfigurations.
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Decision

1. The appeal is allowed, and planning permission is granted for Demolition of an existing front projection, the erection of a rear extension with a first floor addition including front and rear dormers, alongside interior reconfigurations at Sunnyside, Berrys Green Road, Westerham TN16 3AH in accordance with the terms of the application, Ref DC/21/01248/FULL6, dated 12 March 2021, subject to the attached Schedule of Conditions.

Main Issues

2. 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 of the proposal on the openness of the Green Belt; and iii) if the proposal would constitute 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 allow the appeal.

Reasons

Whether Inappropriate

3. The appeal building is a bungalow with a hipped main roof and flat roofed front, rear and side projections. The planning history set out in the council's officer report suggests it has been extended since its original construction in the 1970s. The proposed development would include the demolition of various parts of the building and the erection of extensions to the roof and rear to create a two storey building with a part-hipped roof and front and rear dormers.

4. The appeal site is located within the Metropolitan Green Belt. Paragraphs 147 and 148 of the Framework advise that substantial weight should be given to any harm to the Green Belt and that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 of the Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, but exceptions include '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'.
5. Policy 49 of the Bromley Local Plan (2019) (LP) reflects the advice set out at paragraphs 147 and 149 of the Framework. Policy 51 of the LP states extensions or alterations to dwellinghouses within the Green Belt will only be permitted if the net increase in the floor area over that of the original dwellinghouse is no more than 10%, amongst other things.
6. I have not been presented with any figures or plans relating to the size of the original dwellinghouse, but the main parties refer to the existing building as having a floor area of 182 sqm, which would be increased by 23% to 225 sqm by the proposed development. In claiming this increase in floor area would not result in disproportionate additions over and above the size of the original building, the appellant has referred to a certificate of lawfulness¹ relating to various proposed extensions to the appeal building ('the Alternative Works').
7. I have not been provided with the full details of the Alternative Works. The council's officer report clarifies that the existing floor area of the appeal building could be increased by 38% to 251 sqm through the completion of those works, which would include rear dormer and hip to gable roof extensions and side and rear single storey extensions.
8. I have been referred to an appeal decision² concerning a different site where an Inspector concluded the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) give a good indication of what should be regarded as proportionate additions to buildings. That opinion was expressed in the context of increases in footprint and floor area.
9. In this case, I have been provided with limited details of the Alternative Works but based on the plans³ and written descriptions provided, they would appear to be largely confined to ground floor level and would not include any front dormers or the raising of the roof ridge. There would be distinct differences between how the floor area of the proposed development and that of the Alternative Works would appear as additions to the original building, which I consider to be an important factor when assessing whether the proposed extensions would comprise disproportionate additions.
10. The proposed development would increase the height and bulk of the appeal building and consolidate its footprint. Although parts of the existing building would be demolished, these would not appear to comprise part of the original building. The proposed roof alterations would create a building which would appear much larger than the original building, and those alterations would not

¹ The council's ref: 20/01961/PLUD

² APP/G2245/D/16/3160342

³ Drawing number: SUNNYSIDE/P/C/001 dated 14 February 2021

be proportionate to what appears to have comprised the original building. Furthermore, the proposal would increase the floor area of the original building by more than 23%, contrary to the 10% limit specified by policy 51 of the LP.

11. The proposal would therefore result in disproportionate additions over and above the size of the original building, and would constitute inappropriate development in the Green Belt. The Framework advises inappropriate development should not be approved except in very special circumstances. The proposal would also be contrary to Policies 49 and 51 of the LP, which are set out above.

Openness

12. The appeal site comprises a relatively large plot with a bungalow and a large outbuilding to the rear. It is set at a higher level than the highway, amongst similar styles of detached houses on a rural lane surrounded by wider countryside, a short distance from more suburban settlements.
13. Paragraph 137 of the Framework states: 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. Paragraph 138 identifies five purposes Green Belts serve, including, amongst other things, to prevent neighbouring towns merging together and to assist in safeguarding the countryside from encroachment. Openness is therefore an essential characteristic of the Green Belt, which has spatial and visual aspects.
14. As the proposed development would increase the size of the appeal building, a low level of harm would be caused to the openness of the Green Belt in a spatial sense. Visually, there would also be a greater impact on the openness of the Green Belt, but the level of harm would also be low on account of the existing form of the appeal building and its positioning within a residential plot, close to neighbouring houses of similar sizes.
15. The proposed roof extensions would be seen from the highway and neighbouring properties, but the proposed increase in size, height and bulk would not detract from the openness of this part of the Green Belt in the context of closely arranged similar development nearby. Overall, the proposal would cause low-level harm to the openness of the Green Belt by increasing the size and bulk of the appeal building.

Other Considerations

16. Paragraph 148 of the Framework states that '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, would be clearly outweighed by other considerations.
17. The council has described the floor area of the proposed development as 'significantly less' than that of the Alternative Works and the appellant has referred to that lawful scheme as a fallback position, in the case that the appeal is dismissed. The appellant has suggested that the proposal would benefit the openness of the Green Belt in comparison to the Alternative Works due to it proposing a smaller increase in floor area.

18. Spatially, the Alternative Works would have a greater impact on the openness of the Green Belt due to their greater floor area. Visually, the submitted details suggest there would be little difference between the impact of the proposal and the Alternative Works on the openness of the Green Belt, as each scheme would increase the size of the appeal building in different ways.
19. In consolidating the footprint of the appeal building, the flat roofed single storey front extension to the bungalow would be demolished as part of the proposal. The existing flat roofed garage would also be replaced with a crown roofed garage to the side of the appeal building. The existing bungalow has a sprawling layout and the removal of the existing flat roofed elements to its front and side would have a significant positive impact upon the appearance of the building and the character of the area.
20. Conversely, the Alternative Works, which would include a large flat roofed side extension, hip to gable roof extensions, and a flat roofed rear dormer, would have a significantly harmful effect on the character and appearance of the area. Although there is no mechanism before me to prevent the appellant from carrying out any parts of the Alternative Works prior to the appeal scheme, I consider it unlikely that the large flat roofed side extension would be carried out prior to the appeal scheme. This would be on account of the floor area and layout proposed, which would support the appellant's claims that the proposed development would better suit their needs than the Alternative Works. It would not be possible to carry out both sets of roof alterations.
21. Although I have not been provided with the full details of the Alternative Works and the certificate of lawfulness relating to them, I have been provided with sufficient information to convince me they would form a genuine and realistic option likely to be carried out by the appellant to increase the size of the appeal building, and they therefore form a fallback position. In comparison to the existing bungalow and the Alternative Works, the design of the proposed development would have a substantial positive effect on the character and appearance of the area.
22. The positive effect of the proposal on the character and appearance of the area in comparison to the Alternative Works would be so substantial that it would clearly outweigh the harm which would be caused to the Green Belt by way of the proposal's inappropriateness and the harm the proposal would cause to the openness of the Green Belt. The harm the proposal would cause to the openness of the Green Belt would be slightly less than that which would be caused by the Alternative Works. Subject to appropriate conditions, these factors constitute the very special circumstances necessary to allow the appeal, as referred to by paragraphs 147 and 148 of the Framework and within Policy 49 of the LP.

Conditions

23. A condition requiring the commencement of development within the relevant timeframe is necessary, as is a condition requiring development to be carried out in accordance with the approved plans in the interests of clarity. Such conditions would not formally require the completion of the proposed development and would not therefore require the demolition of all parts of the existing bungalow shown to be demolished on the proposed plans within any specific timescale. As I have found the proposed development would only be acceptable if those parts of the existing bungalow were demolished, it would be

reasonable and necessary to attach a condition requiring their demolition before the first occupation of any part of the first floor of the proposed development.

24. The application form clarifies that the proposed materials and finishes of the walls of the proposal would match the existing building. There are no further details regarding the external finishes of the proposal, and it would therefore be reasonable and necessary to attach a condition requiring those materials to match the existing building. This would ensure the proposal blends appropriately with the existing building and surrounding area.
25. The Council has suggested a condition requiring the proposed first floor north elevation window to be obscure glazed. I agree that such a condition, which would also need to address the opening of that window, would be reasonable and necessary to avoid any unacceptable levels of overlooking of the neighbouring property. The Council's suggested wording would not meet the tests set out at paragraph 56 of the Framework and I have therefore attached a condition with alternative wording which would meet those tests.
26. Paragraph 54 of the Framework advises that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. As I have found the proposed development would constitute inappropriate development and cause harm to the openness of the Green Belt, there would be clear justification to attach a condition preventing any further extensions from being made to the appeal building which would otherwise be permitted under the provisions of the GPDO, without express planning permission, in the interests of the protection of the Green Belt.

Conclusion

27. For the reasons set out above and having regard to all other matters raised, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development and I conclude that the appeal should succeed.

L Douglas

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: SSBERGRNRD/P/A/001, SUNYSIDE/P/B/001, and SUNNYSIDE/P/C/001.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) The proposed bathroom at first floor level shall not be made capable of being used until the window at first floor level on the north elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 5) The first floor of the development hereby permitted shall not be first occupied until all parts of the dwelling shown to be demolished on the approved plans have been demolished in their entirety.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions to the dwelling shall be erected other than those expressly authorised by this permission.