
Appeal Decision

Site visit made on 30 May 2022 by Elizabeth Davies BSc (Hons) MIEMA, CEnv

Decision by Martin Seaton BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2022

Appeal Ref: APP/G5180/D/21/3279324

Christmas Cottage, Berrys Hill, Berrys Green, Westerham TN16 3AG

- 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 Buttle against the decision of London Borough of Bromley.
 - The application Ref DC/21/00968/FULL6, dated 08 February 2021, was refused by notice dated 21 May 2021.
 - The development proposed is demolition of existing courtyard walls and patio area. Erection of single storey side and rear extension to facilitate home gym and office.
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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 issues in the appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and the development plan.
 - The effect of the proposal on the openness of the Green Belt; and
 - If the development would be inappropriate, 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

Whether it would be inappropriate development

4. The appeal property is a large, detached two storey dwelling located on a generous plot.
5. Paragraph 149 of the Framework states that new buildings are inappropriate in the Green Belt unless they fall within the given list of exceptions. One

exception 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. This is defined in the Framework as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

6. Policy 49 and 51 of the Bromley Local Plan (January 2019) (the 'Local Plan') are generally consistent with the Framework. Policy 49 echoes the Framework, stating that disproportionate additions over and above the size of the original building would be inappropriate. Policy 51 of the Local Plan also seeks to prevent disproportionate additions over and above the size of the original dwelling. It states, in part (a) the net increase in the floor area over that of the original dwellinghouse is no more than 10% ascertained by external measurement. The Framework does not set a limit, leaving it to the decision maker to determine whether the extension is disproportionate, and although I am mindful that the current Local Plan would have been examined in the context of earlier iterations of the Framework, no changes to the relevant Green Belt exception or definition of original building have been made. I have considered both the context and appearance of the property as well as the uplift in floorspace and volume when considering proportionality.
7. The Council states that the proposal would add approximately 41 sqm of floorspace to the dwelling. The appellants figures differ slightly from the Council's, their evidence indicates that the existing dwelling has a footprint of 169 sqm and the proposed development would result in a footprint of 205 sqm (a 36 sqm increase). Even when taking the appellants lower estimate, this would represent an increase of 21% in floor area of the current dwelling. However, the exception in the Framework relates to all additions to the original building. The evidence before me indicates that a number of extensions and alterations have taken place historically at the property. Calculations have not been provided by either party to confirm the volume of the previous extensions. However, it is clear from the plans and my site visit that the previous extensions coupled with the current proposals would result in a significant increase in the size of the original dwelling house.
8. On the above basis, I consider that the proposed extension represents a disproportionate addition over and above the size of the original building. It does not accord with the Framework or Local Plan Policy 49 and 51 and therefore would be inappropriate development in the Green Belt.

Openness

9. The Framework states that "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". Openness can be determined by visual and spatial aspects.
10. The appeal property is set back from Berrys Lane behind a high hedgerow. The proposed extensions are located at the rear and side of the dwelling and any views from Berrys Hill and neighbouring properties are screened by the existing dwelling and the high boundary hedge. There would therefore be no views of the proposed extensions from public land or neighbouring properties and hence no visual impact on openness.
11. In terms of spatial aspects, the proposed side extension would introduce built form into a part of the site which is currently undeveloped and as such would

inevitably affect the spatial openness of the site. The proposed rear extension would be located in a courtyard area and I do agree to some extent with the appellant that the presence of the existing courtyard walls means this part of the site is not particularly open. Whilst the appellant states that the roof has been designed to slope back to the main house to seek to reduce the massing, I do not consider that this design measure alleviates the impact as the courtyard area would be enclosed by the extension which would result in some loss of spatial openness.

12. Whilst I have not found that any visual impact will occur, there would be a spatial impact and so, overall, the extensions would have a harmful effect, albeit to a limited degree, on openness. This harmful impact on openness, combined with the inappropriateness of the proposal in principle, both carry substantial weight.

Other Considerations

13. The NPPF states 'very special circumstances' will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the development, is clearly outweighed by other considerations.
14. The appellant has identified a fall-back option for the construction of two outbuildings, under Schedule 2, Part 1, Class E of the General Permitted Development Order (GPDO). The outbuildings would be located in the same location as the proposed rear and side extensions, but with a small set back from the dwelling. A plan has been provided which indicates that the proposed outbuildings would have a larger footprint than the proposed appeal scheme.
15. The Courts have held that in considering the concept of a fall-back development as a material consideration, there should be a "real prospect" of it being implemented, and not just a theoretical possibility that the development might take place. It is also held that it is for the decision-maker to exercise their planning judgement on this matter and to ascribe the appropriate weight.
16. I accept that given the apparently larger scale of the proposed outbuildings compared to the appeal scheme, the impact on the openness of the green belt under this option would be greater. However, I am not fully persuaded that there is a real prospect and likelihood that this fall-back option would occur. In both instances the indicated position of the proposed outbuildings would be within no more than a few centimetres of the existing dwelling, creating a significant practical obstacle to the future maintenance of both the affected walls of the dwelling and respective outbuilding. Furthermore, the position of the outbuilding shown closest to the garage would at least partially conflict with the provision of vehicular access to and from the nearest garage bay to the house.
17. I find that these consequences of the alternative development diminish the probability of it taking place, and therefore effect the real prospect of its implementation. In this instance, I find the alternative scheme to be largely a theoretical possibility and therefore attach only limited weight to the prospect of the fallback position as an alternative to the appeal proposal.
18. The appellant's wish to add additional space to their home is understood, however, these personal circumstances carry little weight. I note that the use of materials to match the main dwelling are proposed and the extensions will

be in keeping with the character and appearance of the host dwelling. However, the lack of harm in this respect carries neutral weight.

19. The appellant has highlighted that the proposal seeks to enhance biodiversity at the site by introducing additional lawn and a new section of hedgerow to the rear of the dwelling. Whilst these improvements are welcomed and would have some benefits for biodiversity, given the small scale, the positive impacts would be limited and as such carry little weight.

Planning Balance and Conclusion

20. The Framework advises that the Government attaches great importance to Green Belts and that substantial weight should be given to any harm to the Green Belt.
21. It is concluded that the development would cause harm to the Green Belt by way of inappropriateness and some limited harm to openness. Balanced against that are the other considerations identified above. For the reasons given, I conclude that the likelihood of the erection of the fallback development as identified by the appellant carries only limited weight and does not therefore clearly outweigh the harm to the Green Belt. Therefore, there are no very special circumstances to justify the proposal.
22. The proposed development would be contrary to the Framework and Policy 49 and 51 of the Local Plan as described above.
23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elizabeth Davies

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Martin Seaton

INSPECTOR