



Appeal Decision

Site visit made on 26 July 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2022

Appeal Ref: APP/T2215/W/21/3282336

Braeside, Roman Villa Road, Darenth, Kent DA2 7QS

- 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 W Lee against the decision of Dartford Borough Council.
 - The application Ref DA/20/00837/FUL, dated 14 July 2020, was refused by notice dated 28 July 2021.
 - The development proposed is described as 'the erection of detached outbuilding (alternative to that approved under reference 13/00094/LDC)'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) whether the proposed development would be inappropriate development in the Green Belt; and
 - b) would harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development

3. The National Planning Policy Framework 2021 (the 'Framework') advises that the construction of new buildings in the Green Belt should be regarded as inappropriate development.
4. The Framework does however establish certain exceptions that should not be regarded as inappropriate development. Paragraph 149(c) allows for the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. Given the proximity of the proposal to the existing dwelling the Council has considered it as an extension under Paragraph 149(c).
5. The appellant considers the proposal to fall within the exception set out in Paragraph 149(g). This allows the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use. However, for development to not be inappropriate development under Paragraph 149(g) there is an explicit requirement to consider whether or not the proposal has a greater impact on the openness of the Green Belt than

the existing development. In determining the nature and extent of any impact on Green Belt openness it is necessary to assess both spatial and visual impacts.

6. Neither part (c) or (g) of Paragraph 149 require the proposal to be considered against the other purposes of including land within the Green Belt. Therefore, the issue of encroachment is not directly relevant to my decision.
7. Policy CS13 of the Dartford Core Strategy 2011 (the 'Core Strategy') and Policy DP22 of the Dartford Development Policies Plan 2017 (the 'DDPP') set out the Council's approach to the assessment of proposals in the Green Belt. These policies are broadly consistent with the Framework.

a) Extension of existing building

8. Although the Framework does not explain what is meant by 'disproportionate', Policy DP22 of the DDPP states that proposals which result in volumetric increases of more than 30% over the original building will be resisted.
9. The Council indicate that the original dwelling has already been extended by 77%. The appellant does not disagree with this figure. The volume of the appeal outbuilding would increase this percentage still further.
10. I consider that when combined with the existing additions, the proposal would result in disproportionate additions over and above the size of the original building. As such, the proposal would be contrary to Policy DP22 of the DDPP and Policy CS13 of the Core Strategy and would fail to meet the exception set out in paragraph 149(c) of the Framework.

b) Redevelopment of previously developed land

11. The proposed outbuilding would occupy an area of land to the east of the existing dwelling. It forms part of an area of hardstanding but where the building would be sited contains no existing buildings or structures. The proposed outbuilding would be L-shaped and which the appellant indicates would have a footprint of 108m²
12. By definition, when compared to the existing situation, the erection of such a building where none previously existed will reduced the openness of the Green Belt both in visual and spatial terms. That there is boundary planting to the east of the building would not alter this outcome.
13. Accordingly, the proposal would conflict with the fundamental aim of Green Belt policy, which is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. On this basis, the proposal would not meet the requirements of paragraph 149(g) and so would not fall within this exception.
14. The proposal would therefore be contrary to Policy DP22 of the DDPP and Policy CS13 of the Core Strategy.

c) Findings

15. Taking all the above into consideration, I conclude that the development would be inappropriate development in the Green Belt, contrary to local and national policy to protect it. It would also be harmful to the openness of the Green Belt.

These are matters to which Paragraph 148 of the Framework requires me to attach substantial weight.

Other Considerations

16. In support of the proposal the appellant points me towards a 2013 Lawful Development Certificate (LDC) for an outbuilding. It would be a rectangular building rather than L-shaped. Although it would be in a slightly different position to the building now proposed, there is some overlap in their footprints.
17. The appeal building would have a smaller footprint than the building in the LDC, by approximately 15.5m². However, it would have a far greater volume, which the Council estimate to be 46.5%. Given their similar siting and the small reduction in footprint compared to the significantly greater volume, it seems to me that in both visual and spatial terms the appeal proposal would not represent a more beneficial scheme in terms of the effect on the openness of the Green Belt, when compared to the alternative LDC scheme.
18. The appellant suggests that what is now proposed is less utilitarian than the building shown in the LDC and is more domesticated in its scale and form. However, given the position of the building and its lower height compared to what is now proposed, the LDC building would not have a more harmful effect on the appearance of the site than the scheme which is now before me.
19. Furthermore, there is no reason why a building erected under permitted development cannot be visually pleasing or domesticated in its scale and form. In this regard the appellant is not limited to erect the building shown in the LDC and has not indicated that such an alternative building would not be possible in this case. Indeed, the appellant explicitly notes that a permitted development scheme can be 'apportioned in a number of forms'.
20. Nonetheless, the appellant has suggested that a condition could be imposed on any permission to remove permitted development rights from the property, for further outbuildings. There is no evidence that further outbuildings are currently contemplated. However, such a condition would not overcome the harm to the Green Belt that would arise as a result of the proposal itself. Therefore, this does not weigh in favour of the proposal.
21. Furthermore, putting aside whether such a condition is reasonable, necessary or justified to endeavour to safeguard the Green Belt, if I allowed the appeal and imposed such a condition to restrict permitted development rights, that condition would only take effect once the development subject of this appeal had commenced. It would not prevent the rights being used and outbuildings being constructed between my decision being issued and work starting, and so other, alternative outbuildings could still be built.
22. Overall, whilst I have not questioned the appellant's desire to undertake the works set out in the 2013 LDC, the weight I attach to it as a fallback position, and the use of a condition to restrict further outbuildings under permitted development, is limited.
23. The appellant notes that the Council has not raised any concerns in relation to issues of heritage, transport, design, or residential amenity. The scale and appearance of the building are also said to be appropriate for the location and proposed uses. However, such matters would be a requirement of the development plan and therefore would be neutral factors in any balance.

Green Belt and Planning Balance

24. The proposal as a whole would constitute inappropriate development in the Green Belt which would also be harmful to openness. As such, the Framework requires me to give these collective harms substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
25. The existence of a 'fallback' position in itself does not necessarily amount to very special circumstances. This is because the circumstances cited in support of a proposal must not just outweigh the harm to the Green Belt but clearly outweigh it in order to constitute very special circumstances.
26. In this particular case, not erecting the LDC building would have limited benefits. Furthermore, the removal of permitted development rights for additional outbuildings would not necessarily have much practical effect in terms of safeguarding the Green Belt.
27. For the reasons given above, I therefore find that the other considerations in this case do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
28. I find that the proposal conflicts with the development plan and that other material considerations do not indicate that the appeal should be determined otherwise.

Conclusion

29. For the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR