



Appeal Decision

Site visit made on 14 June 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18th August 2022

Appeal Ref: APP/G5180/W/22/3293745

Land to the south of Cudham View, Berry's Green Road, Berry's Green, Bromley TN16 3AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Eileen Lancaster against the decision of The London Borough of Bromley.
 - The application Ref DC/21/04131/OUT, dated 15 August 2021, was refused by notice dated 17 December 2021.
 - The development proposed is the construction of a single detached self-build dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline permission is sought but with access, layout and scale to be considered at this stage. I have determined the appeal on this basis.
3. The Council has advised that during the course of the appeal the appellant has submitted an Ecological Assessment Report, dated February 2022. The Council has confirmed that, subject to a condition for a scheme of biodiversity enhancements at the site, it will not now be contesting the second reason for refusal in respect of potential harm to protected species. I therefore do not address this matter in the reasoning below.

Main Issue

4. The main issues are:
 - 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;
 - The effect of the proposal on the openness of the Green Belt; and
 - If the proposal is 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 the development.

Reasons

Whether inappropriate development in the Green Belt

5. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping it permanently open. It states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in Paragraph 149. Exception e) refers to limited infilling in villages. Policy 49 of the Bromley Local Plan (2019) (LP) reflects the Framework in these regards.
6. Berry's Green is characterised by scattered residential development of mainly detached dwellings set well back into spacious plots within a generally rural landscape. Berry's Green Road is relatively narrow, set into a hollow and this narrow sunken character, lined in places by hedgerows and mature trees emphasises the rural character of the area. There is no focus or nucleus to its development form and although the appeal site may be close to the crossroads of Berry's Green Road and Berry's Hill there is no concentration of dwellings in this point to indicate that it is in any way the centre-point of the settlement. There are no shops or facilities in the immediate area and a public house and primary school are located some distance away to the west.
7. The appeal site lies to the western side of Berry's Green Road and here the area is relatively undeveloped with fields and copses of trees running through to the road, interspersed with a few dwellings set in large gardens. On the eastern side is a more consistent series of detached dwellings but again, in the vicinity of the appeal site, these are set back from the road in large plots, with mature vegetation and a rural character.
8. Whilst the Framework does not specify what size a village may be and a settlement boundary is not an essential prerequisite, from the evidence I have seen, the immediate area involves a loose knit distribution of low density dwellings without a cohesive settlement form. It therefore cannot be regarded as a village.
9. There is no definition of infill in the Framework. This is a matter of planning judgement, having regard to factors such as the nature and size of the development, the location of the site and its relationship to other existing development adjoining and adjacent to it.
10. The proposed dwelling would be located in the southern corner of the plot to Cudham View, part of an extensive grassed area which surrounds the property to its sides and rear. It would adjoin a substantial field to the south and beyond this is Homeleigh Farm which is associated with other fields and outbuildings. The appeal dwelling would be sited much closer to the road than the existing dwelling, in line with its large front garden and drive, and beyond this to the north is the copse of trees running up to the crossroads. The only structures to the front of the existing dwelling are a linear row of single storey outbuildings between it and the appeal site, and a garage towards its northern boundary.
11. The plan of the appeal site and locality shows that the proposed dwelling would not be surrounded on all sides by a concentration of built form, it would be remote from other buildings and, despite the similar set back of other

properties in the area, could not be considered as infilling a gap. Even in its wider context looking at the distribution of development across a larger area, the appeal proposal would be devoid of surrounding built context on the western side of Berry's Green Road which is predominantly farmland with only intermittent development.

12. My attention has been drawn to appeal decision (APP/D2320/W/21/3283978). However, as I do not have the full details, I cannot determine whether the circumstances are analogous to the case before me. Notwithstanding this, I note that it is also within a different settlement to the appeal proposal and in another Local Authority area. Accordingly, I have determined the appeal on its individual merits based on the evidence before me and my observations at the time of my site visit.
13. For the reasons above, the proposed dwelling cannot be regarded as limited infilling in a village. The proposal would therefore be inappropriate development in the Green Belt having regard to the Framework and Policy 49 of the LP.

Effect on openness

14. The Framework advises that openness is an essential characteristic of Green Belt policy. Openness has a spatial as well as visual dimension. The construction of a dwelling on the site would result in built development where there are presently no buildings or other development, other than the small outbuilding against the northern boundary. The footprint of the dwelling, its bulk and the other accompanying domestic accoutrements which would follow would inevitably lead to a loss of openness, and that impact would be significant.
15. I recognise that the nature of the site is to some extent visibly enclosed by existing trees and hedgerows, and that the sunken road with overhanging vegetation would further help filter views of the development. The scale and siting of the proposed dwelling, together with further opportunities for screen planting, would also seek to assist in minimising views of the proposed development from the road.
16. However, even when the vegetation is in full leaf there are views of the site from the road. Indeed, the site forms part of a series of views through to open grassy land from the road, especially when approaching from the south. These views contribute to the open, relatively undeveloped character of the area and development of the appeal site would contrast unfavourably with this. The dwelling would also be significantly further forward than the host dwelling, its outline and the domesticating presence would be visible, exacerbated by the creation of its driveway, enlarging an existing opening in a tree-lined gateway.
17. Whilst there is the potential to provide additional tree planting and screening to the boundaries, and this might to some extent mitigate visual harm, and block public views of this site, it seems to me that such screening would harm the positive contribution that the site makes to the areas character. In addition, the absence of visual intrusion does not in itself mean that there would be no impact on the openness of the Green Belt.
18. It has been put to me that the appeal proposal would not have an adverse effect on the five purposes that the Framework sets out for Green Belt land.

However, the proposed development would read as encroaching into the countryside, contrary to one of the five principles. Furthermore, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and this proposal would not achieve that aim.

19. For the above reasons, the proposed development would result in significant harm to the openness of the Green Belt. Substantial weight is afforded any harm to the Green Belt in accordance with paragraph 148 of the Framework and LP Policy 49.

Other considerations

20. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It states that substantial weight is given to any harm to the Green Belt. "Very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. A dwelling on the site would make a modest contribution to rural housing, contributing to the Council's undersupply. Small scale developments of this type are also an important source of work to local trades. I acknowledge that the development plan and Framework recognise the important contribution that small sites can make towards meeting the housing requirement in an area. This is reinforced by Policy H2 of the London Plan which states that Boroughs should pro-actively support homes on small sites. In addition, I am mindful of the need to provide for housing for different groups including for those people wishing to commission or build their own homes. However, housing provision should also accord with all other relevant policies in the development plan and the Framework. In addition, there is no evidence before me to suggest that the proposal would comply with the relevant legal definitions of self-build housing, or that it would meet an identified local need. Accordingly, and given the scale of development, I give limited weight to the benefits of the proposed development to housing supply and the local economy. It also appears to me that the benefits would be likely to be similar if the dwelling were to be constructed elsewhere where it would not harm the Green Belt.
22. I recognise the intention for the energy efficient development to be well designed to reflect the design character of built form in the locality and to maximise sustainable design and construction techniques. However, as this is an outline application with only limited details available at this stage, I attach limited weight to these aspects. Nevertheless, the proposal would make an efficient use of part of a large garden which is stated to be excess land and under-utilised. With the support for this from LP Policy 3, London Plan Policy D3 and the provisions in the Framework in relation to making effective use of land, this would represent a modest benefit in favour of the scheme and attracts moderate weight.
23. The fact that the planning officer found no other harm beyond finding inappropriate development and a loss of openness cannot be regarded as a benefit, rather it is a neutral factor not weighing for or against the proposal. Similarly, the provision of sufficient amenity area for the proposed development and Cudham View are neutral factors.

24. The modest contribution the appeal proposal would make to housing provision and local economic benefits attracts limited weight, whilst the benefit related to the efficient use of land attracts modest weight. However, taken as a whole, I find that the other considerations in this case do not clearly outweigh the significant harm that I have identified. In concluding, therefore, the harm by reason of inappropriateness, and any other harm, would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.
25. The appellant has raised the matter of the Council's lack of a five-year supply of housing land and that policies most important for determining the application are out-of-date. However, as the appeal scheme is inappropriate development, would harm the openness of the Green Belt and there are no very special circumstances, it would conflict with Green Belt policy. The Framework at paragraph 11d) i. therefore provides a clear reason for refusing the development proposed. As such, it is not necessary to apply the approach set out in paragraph 11d) ii. of the Framework.

Conclusion

26. In summary, the appeal proposal would be inappropriate development in the terms set out by LP Policy 49 and the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm.
27. For the reasons set out above, and considering all other matters raised, the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal is dismissed.

G Bayliss

INSPECTOR