



Appeal Decision

Site visit made on 21 November 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/G5180/D/22/3298105

South Lodge, Kemnal Road, Chislehurst BR7 6LY

- 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 Brouard Architects against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/03349/FULL6, dated 7 June 2021, was refused by notice dated 28 March 2022.
 - The development proposed is a single storey rear extension and construction of detached rear garage, with new landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the banner heading above is taken from the appeal form, and is the same as that used on the Council's decision notice. I note the appellant's comment that the Council had "unilaterally changed the description of the development". However, the original wording did not refer to the proposed detached garage, and I have therefore used the amended form as it provides a more complete description of the scheme.

Main Issues

3. The appeal site is within the Green Belt. Accordingly, I consider that the main issues are:
 - Whether or not the proposal would be inappropriate development within 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 would be inappropriate development, whether or not the harm by reason 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 the proposal.

Reasons

4. South Lodge stands on the east side of Kemnal Road. To the south the road is characterised mainly by substantial detached houses, often in generous

grounds, along with several relatively modern blocks of flats; north of the appeal site it becomes more of a rural, or at least semi-rural, lane in character. The whole appeal site is within the Green Belt.

5. South Lodge itself is a two-storey detached dwelling, understood by the appellants to be Victorian. It sits towards the south-west corner of its plot; on the northern side of the house is a gravel drive and parking area; a long brick wall separates the drive from a lawned rear garden. There is mature vegetation around most of the site's boundaries. The proposed development is the erection of a single storey rear extension measuring around 8.3m wide by 8m deep – this would have a flat green roof – and a detached garage with a pitched tiled roof.

Whether or not inappropriate development in the Green Belt

6. The Government attaches great importance to Green Belts. Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very specific circumstances, while Paragraph 149 indicates that, other than for listed exceptions, the construction of new buildings in the Green Belt should be regarded as inappropriate. One exception, provided for by Paragraph 149(c), 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".
7. Policy 49 of the 2019 Bromley Local Plan ("the BLP") sets out the Council's strategic approach to the Green Belt; it essentially duplicates the provisions of national policy in the Framework. Policy 51 of the BLP sets out the development plan requirements for the extension or alteration of dwellings within the Green Belt; among other provisions, of particular relevance to this appeal it states that this will only be permitted where "the increase in the floor area over that of the original dwellinghouse is no more than 10%, as ascertained by external measurement".
8. The appellant considers that "there is a degree of inconsistency between Policy 51 and the Framework bearing in mind that [permitted development] extensions could be added to the original building that would undoubtedly provide a floor area greater than the 10% that is permitted by policy". However to my mind that point addresses a site-specific issue (albeit one that may be relevant to many individual sites) rather than the broader question of the policy's compatibility with the Framework, and I therefore deal with the relevance of permitted development rights within the "other considerations" section below. In general terms I consider that Policies 49 and 51 both reflect, and are consistent with, the provisions of the Framework.
9. The appellant states that the proposed rear extension would have a Gross Internal Area ("GIA") of 64m²; by the Council's calculation (which has not been disputed by the appellant) this would add around 36% to South Lodge's existing floor area of 176m². The proposed garage would have a footprint of 25.7m² (by the Council's calculation) and a GIA of 20m² (by the appellant's measurement). While Policy 51 refers to the external measurements of the building, and the floor areas in this case have been provided in terms of the GIA, it is nevertheless apparent that the proposed increase in floorspace would exceed the 10% threshold set out in the policy by a considerable margin.

10. Looking beyond the measurements provided, the proposed extension and garage would occupy garden space at the rear of the dwelling. Based on the submitted drawings, it is apparent that the rear extension would substantially increase the built footprint of South Lodge. In my view, however it is approached, the proposed development would represent a substantial alteration to, and expansion of, the original form of the appeal property.
11. I therefore consider that the proposed extension would represent a disproportionate addition over and above the original building. Consequently, it would not fall within the exception described in Paragraph 149(c) of the Framework, and would be inappropriate development in the Green Belt. By definition, it would be harmful to the Green Belt, and this is a matter to which I afford substantial weight in the planning balance as required by Paragraph 148 of the Framework. The development would also conflict with Policies 49 and 51 of the BLP, which seek to protect the Green Belt within Bromley in line with national policy.

Openness of the Green Belt

12. A fundamental aim of Green Belt policy, set out Paragraph 137 of the Framework, is to keep land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The baseline for considering the effect on openness, which is the absence of development and which has both a spatial and visual aspect, must be what currently exists at the site.
13. The proposed extension and garage would increase the amount of built form on the appeal site, and would therefore reduce the spatial openness of the Green Belt. The neighbouring dwelling "Piermont" and the mature trees and other vegetation around the appeal site provide a high degree of visual containment; although frontal views of the garage and oblique views of the extension would be possible from outside the north-west corner of the site, the reduction in visual openness would be limited. Nevertheless, considered both spatially and visually, there would be some overall loss of openness.
14. Given the size of the proposed extension and garage in the context of the Green Belt as a whole, as well as the limited and localised nature of the visual and spatial impacts, I consider that the development would cause only moderate harm to the openness of the Green Belt. Once again though, the Framework is clear that substantial weight should be given to any harm to the Green Belt.

Other Considerations

15. I return to the matter of permitted development rights, and the appellant's argument that this route could allow for extensions which would add more than 10% to the floor area of the appeal property. Effectively, although the appellant did not use the phrase, permitted development rights have been put forward as a fallback position.
16. I have not been made aware of any specific schemes – past or proposed – which would allow the precise scale of extensions which might be permissible under permitted development rights to be quantified. I accept that it is quite probable that permitted development could allow for an increase the floor area of the appeal property by more than the 10% which the development plan

considers to be disproportionate, but there is nothing before me to demonstrate that it would equal or exceed the 36% increase (not including the garage) which is sought in this case. In any event, it is also possible that other extensions using permitted development rights could be carried out *as well as* the appeal scheme – for example, were I to allow the appeal and grant planning permission, there is nothing before me which would prevent permitted development rights being exercised before it was implemented. Accordingly, I consider that the fallback position of extending the dwelling using permitted development rights does not carry significant weight in favour of the appeal proposal.

17. I note also the expired planning permission granted in 2014 (renewing a permission previously granted in 2009) for a part one/part two storey side and rear extension¹ to which the appellant drew my attention. National planning policy in respect of the Green Belt is substantially unchanged since that decision was made and, although I have not been provided with the full relevant development plan policy, it appears from the evidence put before me that Policy G4 of the then-extant 2004 Bromley Unitary Development Plan applied the same 10% threshold for extensions as Policy 51 of the BLP does now.
18. The total size of the extension now proposed is very similar to that permitted in 2014 – the officer report for the 2014 approval states that the scheme would also represent an increase of around 36% on the floorspace of the original dwelling, but that the Council had approved it in 2009 because it had been “modest in scale, given the size and appearance of the host building”. Nevertheless, it is apparent from the submitted evidence that there are significant differences between the two schemes – the 2014 extension would have been two-storeys high in parts, meaning that it would have had a rather smaller footprint than the current proposal, and it would have been attached to the more secluded side elevation of the property alongside the boundary with Piermont. The 2014 permission does not therefore appear to be directly comparable with the appeal proposal, and so cannot in my view carry more than limited weight in its favour.
19. The appellant also directed me to the earlier grant of planning permission in 2011 for a detached garage², which would have been of similar proportions and form to the garage element of this scheme. However, in considering this appeal proposal I have had regard to the totality of the scheme rather than an isolated element of it. Again, this previous grant of planning permission can carry only limited weight in my determination of this appeal. It is not possible for me to address the question of whether or not that permission has been implemented and is therefore still extant, as on my site visit I did not see anything which appeared to be determinative. While this is therefore a matter which the appellant could still pursue with the Council separately if it was so desired, it has not had a significant bearing on my decision in this appeal.

Other Matters

20. The appeal site lies within the Chislehurst Conservation Area. I therefore have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. As heritage

¹ LPA Ref: DC/14/02047/FULL6

² LPA Ref: DC/11/00525/FULL6

assets are irreplaceable, the Framework states that they should be conserved in a manner appropriate to their significance (paragraph 189). It goes on to advise that any harm or loss requires clear and convincing justification (paragraph 200) and that any harm that is less than substantial must be weighed against the public benefit of the proposal (paragraph 202).

21. Notwithstanding its concerns about the effects of the proposal on the Green Belt, the Council was satisfied that the character and appearance of the Conservation Area would be preserved. None of the evidence before me or what I saw at the time of my site visit leads me to a different conclusion in this respect, although that the proposal is acceptable in this matter does not outweigh the other harm I have found.

Planning Balance and Conclusion

22. The proposal would be inappropriate development in the Green Belt, and would cause moderate harm to the openness of the Green Belt, conflicting with Policies 49 and 51 of the BLP, which seek to protect the Green Belt. These are matters to which I attach substantial weight, as required by Paragraph 148 of the Framework.
23. I have considered and weighed the other considerations in the scheme's favour which have been put to me by the appellant. However, for the reasons I have set out above, I consider that the substantial weight to be given to the Green Belt harm arising from the development is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector