



Appeal Decision

Site visit made on 27 January 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/G5180/D/22/3301576

9 Bertrey Cottages, Single Street, Berrys Green, Westerham TN16 3AD

- 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 Easter against the decision of London Borough of Bromley.
 - The application Ref DC/21/05811/FULL6, dated 15 December 2021, was refused by notice dated 25 May 2022.
 - The development proposed is described as the conversion of existing garage; erection of single storey garden room.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal site is within the Green Belt and so the main issues are:
 - Whether or not the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the proposed development on the openness of the Green Belt; and
 - If the proposed development 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 required to justify the proposed development.

Reasons

Site and proposed development

3. The appeal property is a two-storey end of terrace dwelling. It is within one of three terraces of four properties located close to the confluence of Jail Lane, Single Street and Berry's Hill. The appeal property, like many of the other properties in the street has been previously extended. The proposed development is for a single storey front/side extension.

Whether or not inappropriate development

4. The National Planning Policy Framework (2021) (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that 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. One of the exceptions cited is 149 c) 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'. Policy 49 of the Bromley Local Plan (2019) is consistent with the Green Belt aims of the Framework and includes the same exception from the Framework as set out above.

5. The 'original building' is defined as the building as it existed on 1 July 1948 or if constructed after this date, as it was originally built. The Framework does not define what constitutes a 'disproportionate' addition. Policy 51 of the Bromley Local Plan sets out, amongst other things, that extensions or alterations to dwellinghouses in 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%, as ascertained by external measurement.
6. The appeal property has been extended from its original form. The Council state that this is in relation to a planning consent from 1997 for single storey side and rear extensions and a front porch. I also observed on my site visit that the property has existing timber outbuildings in both the front and rear gardens.
7. The Council's undisputed evidence states that the footprint of the property has been extended by an estimated 127% in the building footprint, and a 60% increase in the floor area of the original dwelling. Such an increase significantly exceeds the 10% limitation in Policy 51 of the local plan.
8. The Council outline that the proposed development would add an additional approximately 10sqm to the dwelling, which when together with the previous additions to the original dwelling would amount to a cumulative increase of 151% in the building footprint and 74% increase in the floor area of the original dwellinghouse.
9. Therefore, although the proposed development in isolation would be relatively modest, taken with other extensions to the property, the proposed development due to its size and scale would result in disproportionate additions over and above the size of the original building in the terms of paragraph 149 of the Framework and Policy 51 of the local plan. For these reasons, the proposal would be inappropriate development in the Green Belt and would be contrary to Policy 51 of the local plan. This is a matter to which I afford substantial weight in the planning balance.

Openness

10. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual aspect. By its very nature of placing built development where there is currently none, the proposed development cannot fail but to have a greater impact on the openness of the Green Belt in spatial terms. I find that in light of the overall size and scale of the development, the harm to the openness of the Green Belt from a spatial aspect would be relatively moderate.
11. The proposed development would be single storey and would infill an existing gap between the garage and the main body of the dwelling. Due to its size and siting, its complementary design and the presence of existing landscape

features to the boundary, the proposed development would not be highly prominent. I therefore find that there would be limited harm to the openness of the Green Belt from a visual point of view.

12. Overall, I consider that the effect on the openness of the Green Belt would be moderate, and I therefore give this harm moderate weight.

Other considerations

13. 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 special circumstances. Paragraph 148 continues by stating that very special circumstances will not exist unless the harm to the Green Belt by way of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. The development in this case amounts to inappropriate development in the Green Belt and the Framework requires that substantial weight is attached to the harm in that regard. It would also cause moderate harm to the openness of the Green Belt.
15. The appellant has referred to a lawful development certificate for an outbuilding in the rear garden of the property. That development is of a different nature and siting to the appeal proposal. Being deemed lawful, it also would not have been considered against the development plan or the Framework, unlike the appeal proposal. It is suggested a planning condition requiring the removal of any part of this outbuilding be imposed prior to the commencement of the proposed development. The suggested wording does not however have the full effect of revoking the consent in perpetuity.
16. Whilst a planning application may be determined with regard to a planning obligation whereby the appellant agrees to not implement a previously unimplemented consent, a planning condition cannot be imposed to achieve the same end. Therefore, whilst I acknowledge the consent, I give it limited weight in the appeal.
17. The appellant also suggests that a condition to remove the permitted development rights would control future development at the property. As I have found that the proposed development would represent inappropriate development in the Green Belt, the removal of permitted development rights would not make the development acceptable in planning terms. I am also mindful that the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so, and in addition, the PPG says that conditions restricting the future use of permitted development rights may not pass the tests of reasonableness or necessity.

Planning Balance

18. The proposal would constitute inappropriate development in the Green Belt. When considered as a whole, moderate harm would be caused to the openness of the Green Belt. The substantial weight to be given to Green Belt harm arising from the proposal would not be clearly outweighed by the other considerations as outlined above. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, the proposed

development would not accord with the Green Belt aims of the Framework and the Bromley Local Plan.

Conclusion

19. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR