



Appeal Decision

Site visit made on 6 June 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2023

Appeal Ref: APP/K2230/D/22/3300592

The Retreat, Northfleet Green, Gravesend, Kent DA13 9PN

- 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 J Chow against the decision of Gravesend Borough Council.
 - The application Ref 20220184, dated 21 February 2022, was refused by notice dated 19 May 2022.
 - The development proposed is construction of an outbuilding.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form describes the development as “retention of Class E outbuilding”. In the interests of accuracy, I have amended this description since ‘retention’ is not a description of development and whether the outbuilding would be permitted development is a matter for my consideration.
3. At time of my site visit, the outbuilding had been constructed.

Main Issues

4. The main issues in this appeal 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 effects of the proposal on the openness of the Green Belt; and
 - Whether any 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 required to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site is within the Green Belt. As set out at paragraph 149 of the Framework, new development within the Green Belt is generally regarded as inappropriate. However, the Framework provides certain exceptions that are not inappropriate. Such exceptions include 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’, which the Framework defines as a

building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

6. The outbuilding has been the subject of a previous appeal decision¹. Drawing on a High Court Judgement² which established that separation alone does not prevent a development from being part of a dwelling, the Inspector assessed the outbuilding against the Framework's Green Belt policy on the basis that the outbuilding is an extension to the appeal property.
7. The Council estimates that, since its former use as a garage in 2003, extensions to the appeal property amount to an increase in floor area of 253.26%. The Council indicates the outbuilding has a floor area of around 80.6sqm. Whilst the Framework does not define what increase in size would constitute a disproportionate addition, the outbuilding adds significant additional floorspace and built volume to the site which, when considered cumulatively with previous additions, would be disproportionate to the size of the original dwelling. Where considered as an extension, the outbuilding would form a disproportionate addition and would thus be inappropriate development.
8. The appellant asserts that as the outbuilding is sited 13m from the main dwelling, it should not be treated as an extension for the purposes of the Green Belt policy tests. Rather, the appellant refers to paragraph 149 b) of the Framework, stating that the outbuilding is incidental to the enjoyment of the dwelling for leisure and recreational purposes. However, paragraph 149 b) supports facilities for a range of outdoor sports and recreation uses, which I do not consider to be relevant to the proposal. Where treated as a separate building, the outbuilding does not fall within the types of development listed as exceptions or defined as not inappropriate by paragraphs 149 and 150 of the Framework. The outbuilding would therefore be inappropriate development.
9. Whether treated as an extension or as a free-standing building, the outbuilding would be inappropriate development within the Green Belt. Paragraph 147 of the Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. For this reason, the proposal would conflict with Policy CS02 of the Core Strategy 2014 (CS) which supports development in the Green Belt where compatible with national policy.
10. Whilst Policy C13 of the Gravesham Local Plan 1994 includes further criteria for extensions and outbuildings in the Green Belt, the policy pre-dates the Framework. The Framework indicates policies should be afforded due weight having regard to the degree of consistency with it. The general approach of Policy C13 is to restrict inappropriate development. However, there are clear inconsistencies between it and the Framework, and I therefore afford Policy C13 little weight.

Green Belt openness

11. Paragraph 137 of the Framework describes the essential characteristics of Green Belt being its openness and permanence and states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open.

¹ Appeal ref: APP/K2230/D/21/3270667

² *Sevenoaks District Council v Secretary of State for the Environment and Dawe* [1997] EWHC Admin 1012

12. From outside the site, the single-storey outbuilding is generally concealed from view by the site's tall boundary walls, fencing and solid gate. The visual impacts of the proposal would therefore be minimal. However, as set out above, the outbuilding adds additional floorspace and built volume to the site. The effect of this additional built development is therefore a harmful loss of openness which weighs against the scheme.

Other considerations

13. The building is used by the appeal property's occupants as a summerhouse. The benefits associated with the outbuilding are therefore a private matter to which I can ascribe no weight.
14. The appellant describes the outbuilding as a Class E building requiring planning permission, since permitted development rights for the site were withdrawn by a planning condition. However, the appellant identifies that, as the building is sited in front of the appeal property, the permitted development rights granted by Part 1 Class E of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) would not apply to the outbuilding. The provisions of the GPDO therefore carry no weight in my decision.
15. The outbuilding has a pitched roof, black timber weatherboarding, and black window and door frames which are in keeping with the appearance of the appeal property. The appearance of the building therefore conserves local character as required by CS Policy CS19. No harm has been identified in respect of landscape character, living conditions, or highway or pedestrian safety. Since no harm arises in respect of these matters, the effects of the scheme are neutral.
16. Prior to its conversion to a dwelling, the appeal property was a garage and store related to the nearby Grade II listed building. The proposal's effects in respect of the listed building did not form a reason for the Council's refusal of the planning application.
17. However, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires I have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The listed building, 'Hazells', is an early 19th century, two-storey building. Its historic significance arises from its built form and architectural features, such as its cement rendered walls, hipped slated roof, curved bays, and sash windows with glazing bars, which are of considerable visual interest.
18. Following conversion, the appeal property appears as a dwelling within a residential garden, with its tall boundary treatments providing clear separation from surrounding development. In the former appeal decision, the Inspector concluded that whilst some views of the outbuilding would be obtainable from Hazells, it would not materially harm its setting or architectural and historic significance. I have been presented no substantive evidence to dispute this conclusion. Since the outbuilding neither harms nor positively enhances the significance of Hazells and its setting, its effects are neutral.

Planning Balance and Conclusion

19. As set out above, the proposal would be inappropriate development in the Green Belt and would harm openness. Paragraph 148 of the Framework instructs that substantial weight be given to any harm to the Green Belt.
20. The Framework indicates that inappropriate development should not be approved except in very special circumstances. At paragraph 148, the Framework states that very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
21. The benefits of the scheme are limited to the appeal property's occupants and, due to its siting, the outbuilding does not satisfy the provisions of the GPDO regardless of the existing planning condition. These matters therefore carry no weight in my decision. Whilst the proposal would not result in harm to landscape character, living conditions, highway or pedestrian safety, or to the nearby listed building or its setting, the absence of harm weighs neither in favour nor against the scheme.
22. The other considerations do not therefore clearly outweigh the substantial harm to Green Belt openness and do not amount to the very special circumstances necessary to allow the appeal. As such, the Framework indicates the appeal proposal should be refused.
23. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR