



Appeal Decision

Site visit made on 10 January 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2024

Appeal Ref: APP/G5180/W/23/3323597

The Gardens, Chapman's Lane, Orpington BR5 3JA

- 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 Michael Williams against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/21/00317/FULL1, dated 19 January 2021, was refused by notice dated 12 April 2023.
 - The development proposed is described as "application for minor external alterations including the introduction of a driveway and associated changes to the fencing and boundary of site".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023. The revisions do not materially affect the parts of the Framework pertinent to this appeal, although paragraph numbers have changed. As such, no injustice would be caused by not inviting comments upon the Framework from the main parties. I have taken the Framework into account in my assessment of the appeal.

Main Issues

3. The appeal site lies in designated Green Belt. As such, the main issues are:-
 - whether the proposal would represent inappropriate development in the Green Belt,
 - its effect on the character and appearance of the area, and
 - if the proposal would include inappropriate development, whether 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 it.

Reasons

Whether inappropriate development in the Green Belt

4. The construction of the proposed driveway would represent an engineering operation. Under policy 49 of the London Borough of Bromley Local Plan 2019 (LP) such operations do not represent inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of Green Belt policy. This is consistent with the provisions of paragraph 155 of

the Framework. The purposes of Green Belt are set out at paragraph 143 of the Framework. Purpose (c) is to assist in safeguarding the countryside from encroachment.

5. Chapman's Lane is a narrow highway and a public footpath as it leads pass the southern boundary of the appeal site. Trees, hedges and fields lie along large parts of the lane. Residential properties tend to be spaced out along the road so they are less influential on its overall character and appearance than the roadside vegetation. Despite the presence of houses and accesses, the locality has a strong rural character so the lane feels like part of the countryside.
6. The proposed driveway would lead from Chapman's Lane through a group of trees and across an open grassed area to join up with an existing track to The Gardens. The vegetated and open grassed nature of the site contributes to the countryside feel of the area.
7. Even when considering trees to be retained, trees already planted and further planting as proposed, the development is bound to be seen by people travelling along the lane when passing the proposed entrance. Also, it would be visible from The Gardens and from the existing access drive. Therefore, the development would have a noticeable, albeit localised, visual effect.
8. The construction of the drive and the introduction of a new hard surface of any type would represent a marked and obvious change to the land. The site would appear less natural and rural than its current state. In these regards, the development would represent an urbanising form of encroachment into the countryside. The proposal would cause a minor harmful effect but nonetheless it would conflict with the purpose of Green Belt set out at paragraph 143 (c) of the Framework. The existence of other driveways and access tracks in the locality fails to address or to justify the detriment caused by the proposal.
9. The drive would be at ground level and so it would not lead to a loss of spatial openness in terms of having an appreciable volume. Moreover, even though it would be visible, the driveway would be free of buildings and structures and so it would appear open. Its use by cars as an access is likely to be infrequent and transient and so it would have no meaningful visual effect. Overall, I find the proposal would preserve the openness of the Green Belt. However, acceptability in these regards does not address the identified conflict with Green Belt policy in terms of encroachment into the countryside.
10. For these reasons, I conclude the proposal would be an engineering operation that conflicts with one of the purposes of Green Belt policy. Therefore, it would constitute inappropriate development in the Green Belt when having regard to LP policy 49 and the provisions of the Framework.

Character and appearance

11. For the reasons set out under the first main issue, I find the proposed driveway would undermine the natural and rural qualities of the site and the surrounding area. The visual effects would be localised but noticeable, particularly to walkers passing the entrance on Chapman's Lane.
12. New tree planting would help address the removal of trees required to create the driveway. Also, the proposal would not be entirely out of character given the existing accesses and residential properties along the road. Even so, the introduction of an additional driveway across land that is typically rural in

appearance would not contribute positively to the landscape. Therefore, I conclude the development would be harmful to the character and appearance of the area and so, in these respects, it would be contrary to LP policy 37.

Other considerations

13. The appellant advises they do not own the existing access track to The Gardens and associated outbuildings with planning permission for conversion to residences. The right of access relies on a legal easement with no terms that cover route upgrades, maintenance or provision of gates. The proposal would provide a more direct route to the appeal property and permitted residences as well as a driveway where maintenance could be more easily controlled.
14. Therefore, the justification for the proposal is understandable. The new access drive would clearly be beneficial to the occupiers of The Gardens and the permitted residences. However, on my visit I saw the existing drive is still useable by vehicles, albeit potholed and in need of attention. Furthermore, the evidence before me fails to clearly show there are insurmountable difficulties over the legal provisions on the existing drive so that the appeal proposal is essential to allow access to The Gardens. As such, I attach only moderate weight to the benefits of the development in these regards.
15. Moreover, I am unable to conclude from the submissions that the permitted conversion of outbuildings to residences would not occur if this appeal were dismissed. Accordingly, I give very limited weight to the benefits of the residential scheme in my assessment of this appeal.

Green Belt balance

16. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. LP policy 49 includes similar provisions. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm as a result of the proposal is clearly outweighed by other considerations.
17. The Framework dictates that substantial weight should be given to any harm to the Green Belt. In this instance, there would be harm by reason of inappropriateness and failing to safeguard the countryside from encroachment. In addition, there would be a detrimental effect on the character and appearance of the area to which I attach modest weight.
18. In comparison, the benefits of the scheme would attract no more than moderate weight. The total harm caused by the proposal would not be clearly outweighed by other factors and so very special circumstances do not exist. Consequently, the development would not accord with LP policy 49 and the Framework's Green Belt provisions.

Conclusion

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

Jonathan Edwards

INSPECTOR