

# Appeal Decision

Site visit made on 12 March 2024

**by A James BSc (Hons) MA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 03 APRIL 2024**

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**Appeal Ref: APP/G5180/W/23/3330217**

**Parkside, Luxted Road, Downe, Orpington, Bromley BR6 7JS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr David Fisher against the decision of the Council of the London Borough of Bromley.
  - The application Ref is DC/23/00816/FULL1.
  - The development proposed is described as 'demolition of existing detached dwelling and erection of replacement detached dwelling with detached garage (as alternative to works currently afforded a Certificate of Lawful Development under reference DC/22/03495/PLUD).'
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appeal site lies a short distance away from a number of Grade II listed buildings. Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of a listed building during the determination of an appeal. As a result of the evidence before me, my site visit and my statutory duty under section 66(1), I have considered this matter as part of one of the main issues. Both parties have had the opportunity to comment on this matter and I have taken all comments received into consideration.

## Main Issues

3. The main issues are:
  - whether the proposed development would be inappropriate development in the Green Belt;
  - the effect of the proposed development on the openness of the Green Belt;
  - the effect of the proposed development on the character and appearance of the area, including the Downe Village Conservation Area (CA), the setting of adjacent listed buildings, known as Nos 1-4 Snows Cottages and Petleys, and non-designated heritage assets (NDHAs),

known as Trowmers and Petley's Farm (now known as The Old Farmhouse); and,

- if the proposal is inappropriate development, would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations as to amount to the very special circumstances required to justify the development.

## **Reasons**

### *Inappropriate development*

4. The appeal site lies within the Green Belt and consists of a modest size bungalow, which lies within a large plot. The proposal seeks to provide a replacement dwelling, with detached garage. The construction of new buildings is deemed to be inappropriate development within the Green Belt, unless it falls within one of the exceptions set out in paragraphs 154 and 155 of the Framework. Exception 154 d) relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
5. Policy 52 of the London Borough of Bromley Local Plan January 2019 (the Local Plan) provides a local interpretation of paragraph 154 d) of the Framework. It requires that a replacement dwelling (including garaging and any accommodation below ground) does not result in a material net increase in floor area compared with the existing dwelling. The supporting text to Policy 52 states that an increase of over 10% would be considered material, although this may also depend on design issues.
6. Policy 52 is broadly consistent with paragraph 154 d) of the Framework. However, the Framework does not require a comparison to be made in relation to the existing dwelling nor does it set a 10% threshold. While the Framework is more up to date than the Local Plan, the wording in the Framework relating to this exception pre-dates the Local Plan. I therefore do not find Policy 52 to be out of date.
7. It is common ground between both main parties that the existing dwelling has a floor area of approximately 165sqm and the proposed dwelling would have a floor area of approximately 220sqm. While the footprint of the proposed dwelling would be smaller than the existing dwelling, the proposal would result in a 33% increase in floorspace, which would be significantly over the 10% threshold. As a result, the proposal would be materially larger than the existing dwelling. Consequently, the proposal would be inappropriate development in the Green Belt, which would conflict with Policies 49 and 52 of the Local Plan, Policy G2 of The London Plan March 2021 and paragraph 154 d) of the Framework.

### *Openness*

8. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. While the footprint of the proposed dwelling would be smaller than the existing dwelling, it would be higher in height. The proposal would incorporate a crown roof and would have 6 dormers, some of which would be of a considerable size. The proposal would result in additional bulk and massing at roof level when compared to the existing dwelling, which has

a shallow pitched roof. Consequently, the proposal would result in a spatial loss of openness.

9. While the proposal would be partially screened by the existing vegetation adjacent to the site frontage, views would remain of the proposed dwelling from the site access and along the driveway of the adjacent cottage. The increase in height and bulk of the roof would make it visually more prominent when viewed from the public realm and also from the countryside to the rear. The provision of a new garage to the front of the proposed dwelling would result in additional built form on a previously undeveloped part of the plot. As a result, the proposal would harm both the spatial and visual openness of the Green Belt.
10. For the reasons given above, I conclude that the proposed development would be harmful to the openness of the Green Belt and would conflict with Policy 52 of the Local Plan. This policy among other things requires that replacement dwellings do not harm the open character of the locality.

*Character and appearance and heritage assets*

11. The appeal site lies within the Downe Village CA. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the CA. The significance of the CA insofar as is relevant to this appeal is derived from the concentration of high quality and historic buildings within the village, which are set within an attractive rural landscape.
12. To the east of the site is a terrace of Grade II listed cottages, known as 1-4 Snobs Cottages. Their historic architecture and use of traditional materials including flint and brick construction, with brick quoins contributes to their special interest and significance. To the south-west of the appeal site is Petleys, which is a Grade II listed building. Its significance insofar as is relevant to this appeal is derived from its early eighteenth century architecture, pitched roof, use of traditional materials and association with other large gentry villas, which are located at the edge of the village.
13. Adjacent to the appeal site is a locally listed building, known as The Old Farmhouse. Its significance is derived from its early to mid-nineteenth century architecture, pitched roof and use of traditional materials. Opposite the appeal site is another locally listed building, known as Trowmers. Trowmers is a substantial gentry house, which dates back to the early eighteenth century. Its significance insofar as is relevant to this appeal is derived from its grand stature, hipped plain clay tiled roof and truncated bellcote.
14. The existing dwelling is modest in size and set back from the highway, within a well landscaped plot. It is largely inconspicuous within the street scene and has a neutral impact on the character and appearance of the CA and the significance of nearby listed buildings and NDHAs. However, the open and verdant nature of the plot makes a positive contribution to the character and appearance of the CA and the significance of nearby listed buildings and NDHAs.

15. There are a mix of house types in the locality, including large, detached dwellings, semi-detached houses and terraced houses. With the exception of the appeal property, dwellings in the area typically have steeply pitched roofs, which utilise traditional materials and are two storeys in height.
16. The proposal seeks to provide a chalet-style bungalow, with accommodation in the roof. I acknowledge that the proposed palette of materials would be in keeping with other properties in the locality. However, the provision of a crown roof with flat-roofed dormer windows would result in a bulky and unattractive roof form. While dormer windows are a feature of the locality, the majority of dormers that are visible from the public realm have pitched roofs. Those dormers that have flat roofs are generally far smaller in size. Consequently, the proposal would appear incongruous in the locality.
17. Garages in the area are typically not forward of the front building line of the dwelling in which they relate. The proposed garage by reason of its size and siting would erode the existing verdant and open front garden and fail to respect the historic pattern of development in the area.
18. At present there are clear views between Nos 1-4 Snows Cottages and the existing bungalow. The proposal would subdivide the garden of the existing dwelling, leaving a vacant plot of land between the proposed dwelling and the listed cottages. Even with additional boundary treatment and soft landscaping, the incongruous roof form of the proposed development would be visible from the listed cottages and would harm the significance of these listed buildings.
19. There is a greater degree of visual separation between the appeal site and the other heritage assets, due to intervening soft landscaping and the highway/access track. Nevertheless, the proposed development would introduce a discordant form of development within the setting of Petleys and the NDHAs, which would harm the historic significance of these heritage assets.
20. The proposal would result in harm to the character and appearance of the CA and the setting and therefore the significance of listed buildings and NDHAs. I find the harm to the CA and listed buildings to be less than substantial, but nevertheless of considerable importance. In accordance with paragraph 208 of the Framework, that harm should be weighed against any public benefits of the proposal.
21. The appellant argues that the replacement dwelling would be of higher architectural quality than the existing dwelling and would utilise materials appropriate to this part of the CA. While the proposed palette of materials would be in keeping with other properties in the CA, the design would be harmful to the character and appearance of the area, including the historic environment.
22. Overall, the proposed benefits carry limited weight in favour of the development. As a result, there are no public benefits of sufficient weight to outweigh the great weight, which I am required to give to the less than substantial harm that would arise from the development.

23. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area, including the CA and the significance of listed buildings and NDHAs. The proposal would therefore conflict with Policy 41 of the Local Plan, which requires that development proposals preserve and enhance the character and appearance of the area.

#### *Other considerations*

24. The appellant has a lawful development certificate (LDC) for a single storey, rear extension, front porch and single storey games room/gym outbuilding at the rear, which represents the fallback position<sup>1</sup>. The proposed development would result in a significant reduction in footprint and volume when compared to the fallback scheme. The proposed floorspace would also be slightly less than the fallback scheme. Nevertheless, the extensions proposed in the LDC scheme would appear subordinate to the host dwelling. They would be largely sited to the rear of the property, so would have minimal impact on the street scene. Furthermore, the LDC scheme would not result in the creation of an additional floor or an increase in bulk and massing at roof level. As a result, I give the fallback scheme moderate weight in my decision.
25. The appellant argues that the proposed garage would be the same size as the outbuilding within the LDC scheme. The appellant also states that the proposal would require less hardstanding, than a garage, which they advise could be erected to the rear of the site using permitted development rights. While the proposed garage would be less visible in views from the countryside than the outbuilding within the LDC scheme, the proposed development as a whole, due to the increase in height and bulk at roof level, would be more prominent in views from the surrounding landscape. The proposed garage would be sited to the front of the proposed dwelling and would be visually more prominent in the street scene and in views from the CA than the fallback scheme. I therefore give this argument limited weight in my decision.
26. The appellant argues that the proposal is of high architectural merit and the use of traditional materials would be appropriate to this part of the CA. However, for the reasons set out above, I find that the design of the proposal would harm the character and appearance of the CA, including the historic environment. The use of traditional materials adds limited weight in favour of the development.
27. The appellant has drawn my attention to an infill scheme that was permitted opposite the appeal site<sup>2</sup> and a replacement dwelling at Elder Cottage in Biggin Hill<sup>3</sup>. Both schemes preceded the current Local Plan and would have been determined under a different policy context. The scheme opposite also related to an infill scheme and would have been considered under a different exception within the Framework. The appeal scheme differs considerably in design from the other schemes before me. As a result, I give the other schemes limited weight in my decision.

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<sup>1</sup> Ref: 22/03495/PLUD

<sup>2</sup> Ref: 15/04895/FULL1

<sup>3</sup> Ref: 16/03189/FULL1

28. The appellant has also drawn my attention to a planning application for a new dwelling on land adjacent to the existing bungalow, which was recommended for approval by Officers but refused by Members. Application ref: 20/01046/FULL1 was for an infill dwelling and would have been assessed under a different policy context. The infill scheme also did not have a crown roof or large flat-roofed dormers and is materially different in design to the scheme before me. I therefore give this other scheme limited weight in my decision.

### **Other Matters**

29. Third parties consider that the proposed design would be an improvement on the current derelict property and would enhance the village. While I have taken these comments on board, this does not alter my findings, as set out above.

### **Green Belt Balance and Conclusion**

30. The proposal would be inappropriate development in the Green Belt, which is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
31. The proposal would also cause harm to the openness of the Green Belt. The Framework is clear that substantial weight should be given to any harm to the Green Belt. In addition, the proposal would harm the character and appearance of the area, including the CA and the significance of nearby listed buildings and NDHAs. Overall, I afford the other considerations advanced in this case moderate weight in favour of the development. Accordingly, very special circumstances do not exist that clearly outweigh the harm to the Green Belt, by reason of inappropriateness and the other harms resulting from the proposal.
32. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

*A James*

INSPECTOR