



Appeal Decisions

Site visit made on 8 May 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 June 2024

Appeal A Ref: APP/T2215/D/23/3328597

Tudor Lodge, New Barn Road, Longfield, Kent DA3 7LT

- 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 Karl Whaid against the decision of Dartford Borough Council.
 - The application Ref is 22/01325/FUL.
 - The development proposed is described as retention of summerhouse (as built).
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Appeal B Ref: APP/T2215/D/23/3328598

Tudor Lodge, New Barn Road, Longfield, Kent DA3 7LT

- 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 Karl Whaid against the decision of Dartford Borough Council.
 - The application Ref is 22/01326/FUL.
 - The development proposed is described as retention of pool building.
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Decision

1. Appeal A is allowed and planning permission is granted for summerhouse at Tudor Lodge, Longfield, Kent DA3 7LT in accordance with the terms of the application, Ref 22/01325/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.
2. Appeal B is allowed and planning permission is granted for pool building at Tudor Lodge, Longfield, Kent DA3 7LT in accordance with the terms of the application, Ref 22/01326/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

3. In allowing both Appeal A and B I have amended the descriptions of development, by removing words that are not acts of development.
4. As set out above there are two appeals on the same site. They differ in terms of description of development and location within the appeal site; however, the main issues remain the same for both appeals. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. At the time of my visit, I observed both proposals to be at an advanced stage of construction.
6. Dartford Borough Council adopted The Dartford Plan (DP) on 22 April 2024 after its refusal of planning permission. The DP replaces the Adopted Dartford Core Strategy 2011 and the Adopted Dartford Development Policies Plan 2017.

In these circumstances, I am required to determine the appeal against the current development plan for the area at the time of my Decision. The appellant and Council were invited to make comments on the relevant policies of the DP policies, and I have taken these comments into account in reaching my decision.

7. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

8. The main issue are:

- i) whether the development would constitute inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
- ii) the effect on the openness of the Green Belt;
- iii) the effect on the character and appearance of the surrounding area; and
- iv) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including the 'fallback' so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

9. The Framework sets out that the Green Belt serves 5 purposes with its fundamental aim to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and permanence. The Framework states that the construction of new buildings should be regarded as inappropriate development in the Green Belt, save for certain exceptions.
10. Policy M12 of the DP broadly complies with the Framework and collectively state that and its essential characteristics are its openness and permanence. Inappropriate development in the Green Belt will be resisted in accordance with national planning policy. Inappropriate development is by definition harmful to the Green Belt and will only be approved in very special circumstances. Very special circumstances will not exist unless potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
11. Paragraph 154 of the Framework allows the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building. The proposed summerhouse is approximately 28 metres (m) away from the house and the pool building in the region of 30m from the existing house. On account of the position of both structures and distance from the host property I do not consider it is reasonable to regard either of the proposed buildings as an extension to the

host property. The proposed development would not conform with any of the other exceptions set out in paragraph 154 of the Framework.

12. Accordingly, the proposal would comprise inappropriate development in the Green Belt, contrary to Policy M12 of the DP and the Framework.

Openness

13. The Framework defines one of the essential characteristics of the Green Belt to be its openness. There is no formal definition of openness but, in the context of the Green Belt, it is generally held to refer to an absence of development. Openness has both a spatial (physical) dimension, and a visual aspect.
14. In spatial terms the proposed development would lead to a loss of openness. I appreciate that available views of the development would be very localised and limited due to heavily landscaped boundaries. Nevertheless, the development would cause some, albeit very limited, harm to the openness of the Green Belt in both spatial and visual terms.

Character and appearance

15. The proposed development would be positioned on a relatively level part of the garden which is heavily landscaped to its boundaries. The proposed structures would be single storey in height.
16. The proposed summerhouse would be positioned close to the shared boundary whereas the proposed pool building would be set in from the boundaries of the site. In both cases the proposed buildings would be largely screened from view by extensive landscaping and accordingly the proposed development would not be visually intrusive to the semi-rural character of the surrounding area.
17. The proposals would be of high-quality design and external finish. Given the extensive size of the plot the buildings, when viewed either individually or cumulatively, would not result in an over-development of the appeal site.

Other Considerations

18. The Framework states that inappropriate development should not be approved except in very special circumstances. These circumstances will not exist unless the development's harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this regard the appellants have referred me to their fallback position.
19. My attention has been drawn to the planning history of the site, including the Lawful Development Certificate¹ (LDC) for the erection of two outbuildings. One to be located adjacent to the southern boundary to be used as a summerhouse for storing garden equipment; the other more centrally located to be a new pool building containing a swimming pool and gym. I have been provided with a copy of the Council's Decision Notice and the drawings which are referenced on the Decision Notice.
20. Both buildings are at an advanced stage of construction. From the evidence before me the ridge height of the summerhouse is 4.7m which exceeds the

¹ (18/01273) dated 10 January 2019

maximum ridge height of 4m permitted within the parameters of the LDC. Similarly, the ridge height of proposed pool building was constructed in excess of 4m in height, standing at 4.95m. It is a significant material consideration that the two buildings would be permitted development if they were constructed to 4m in height.

21. The Council has concerns regarding site levels. However, the appellant states that the original ground levels have been reinstated. Nevertheless, there is no substantive evidence before me, in the form of a topographical survey, to indicate how ground levels may differ or what they were prior to development commencing, and at the time the LDC was granted. Even so, having regard to the design, siting and locational context of the appeal site, the difference between the LDC scheme and the proposal before me is limited in terms of their impact on openness. Consequently, the proposals would not result in material harm to the openness of the Green Belt when compared to the fallback position.
22. For the reasons stated above, I consider the fallback position to be a material consideration of significant weight in this case, and in the overall Green Belt balance.

Green Belt Balance and Conclusion

23. Having regard to the development plan and national planning policy, the proposal comprises inappropriate development in the Green Belt. There would also be harm arising from the proposal on the openness of the Green Belt. However, for the above reasons, I consider that the fallback scheme to be an other consideration of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and any other harm. Thus, very special circumstances necessary to justify the development proposed have been demonstrated.
24. Accordingly, whilst there would be conflict with Policy M12 of the DP, having regard to paragraph 153 of the Framework, the balance of the considerations in this case means the appeals should succeed.
25. For the above reasons, I conclude that both Appeal A and Appeal B are allowed.

Conditions

26. Given the advanced stage of construction it is not necessary to impose a condition relating to the commencement of development. For certainty a condition is required to ensure the development is completed in accordance with the approved plans.

R. Gee

INSPECTOR

Appeal A - Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: A(0)101 rev A existing site plan and block plan, 210704-B 001 rev B, 210704-B 005 rev C, 210704-B 002 rev C, 210704-B 005 rev D.

*****End of Schedule*****

Appeal B Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: A(0)101 rev A, 210704-B 001 rev B, 2010704-B 003 rev B, 210704-B 004 rev B, 210704-B 005 rev D.

*****End of Schedule*****