



Appeal Decision

Site visit made on 9 July 2024

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

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/G5180/W/23/3332878

1 Old Hill, Orpington, Bromley BR6 6BW

- 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 Bertie Keeler against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/00960/FULL1.
 - The development proposed is described as “proposed to demolish dog groomers and construct a one bedbroom single family dwellinghouse”.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I recognise the inconsistency of the name between the application and appeal form. The appellant has confirmed that it is the same person. In this case, I have used the name on the planning application form in my banner heading above.
3. As part of the appeal the appellant has submitted an amended drawing showing the removal of the parking space with the land to be laid to lawn as external garden space. The Procedural Guide for Planning Appeals makes it clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people’s views were sought. Whilst the amended plans were referred to in the appellant’s statement and the Council has commented on the revised plan, there has not been a formal process of consultation by the Council. Under the principles established by the Courts in *Holborn Studios Ltd*¹ to consider such a modification would be a substantive difference and procedurally could prejudice interested parties by depriving those who should have been consulted on the change the opportunity of such consultation. For this reason, I have determined the appeal on the basis of the plans that were before the Council when it made its decision.
4. 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.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWCH 2823 (Admin)

Main Issues

5. The main issues are:

- i) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- ii) the effect of the proposal on the openness of the Green Belt;
- iii) the effect on the character and appearance of the area;
- iv) whether the proposal would provide for acceptable living conditions for future occupiers, with particular regard to internal and external space standards;
- v) the effect of the proposed development on highway safety with particular reference to parking; and
- vi) if the proposal would be 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 necessary to justify the proposal.

Reasons

Whether inappropriate development

- 6. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they fall within one of the categories in the closed list of exceptions set out in paragraphs 154 and 155 of the Framework. Policy 49 of the London Borough of Bromley Local Plan (BLP) is consistent with the Framework's policy for development within the Green Belt.
- 7. It is not disputed between the parties that the established use of the appeal site is as a pet groomer. Based on the evidence before me, I have no reason to reach a different view in this regard.
- 8. Given that the replacement building would not be for the same use as is currently *in situ* the proposed development would fail to meet the exception listed at paragraph 154 d) of the Framework. On that basis alone I must conclude that the scheme would be inappropriate development in the Green Belt, which the Framework says is harmful by definition and should not be approved except in very special circumstances.
- 9. For the reasons stated above, I conclude that the proposal would be inappropriate development in the Green Belt. Accordingly, it would fail to meet the exceptions set out in paragraph 154 of the Framework and would conflict with Policy 49 of the BLP and Policy G2 of The London Plan 2021 (LP).

Openness

10. Openness is an essential characteristic of the Green Belt. There are spatial and visual aspects to the assessment of the openness of the Green Belt.
11. The proposal would be single storey and not dissimilar in footprint and scale to the building it would replace. The appeal site lies within a concentrated area of residential development and the proposal would not result in an unacceptable consolidation of built form. Taking account of all of these factors, I find that the impact of the proposed development on the openness of the Green Belt would be negligible. In this regard, I do not consider there would be conflict with the Framework.

Character and appearance

12. The appeal site is an irregular shaped parcel of land positioned at the junction of Old Hill with Cudham Lane. It comprises a single storey building with a hipped roof and an area of hardstanding and grass. The site is bound by a low-level picket fence. Having regard to the modest scale and location of the existing development, the site has a predominately open character which contributes positively to the street scene.
13. Whilst dwellings in the locality vary in terms of their plot size, form and architectural detailing, the appeal site sits at the end of a small cluster of terraced properties. These properties are two-storey with dormer windows present to the front, and rear roof slopes, of many of the dwellings within the terrace. The properties generally have limited garden spaces.
14. The proposal would be noticeable in views from the street, due to the open plan nature of the site and its visually prominent position at the junction of two roads. However, the resultant dwelling would be of a limited height and depth such that it would remain subservient to the adjacent dwelling. Whilst the roof form would change, overall, the proposal would not be dissimilar to the building it would replace. An appropriate palette of materials could be secured by planning condition. Accordingly, I do not find this element of the proposal materially harmful to the wider street scene.
15. Nonetheless, given the limited depth and width of the appeal site, in accommodating the building, parking and bin store the proposal would appear unduly cramped within the site. Furthermore, the location of the proposed parking and bin store proximate to the junction with the highway would be visually prominent and erode the open nature of the site to the detriment of the wider street scene. In this regard the proposal would appear incongruous in the streetscene.
16. For the above reasons, I conclude that the proposed development would have a harmful impact on the character and appearance of the area. Accordingly, the proposal would conflict with policies 3, 4, 8 and 37 of the BLP, which, state amongst other things that new housing development should make a positive contribution to the area in which it is located and complement the scale, proportion and form of the adjacent buildings and areas. For similar reasons, the proposal would be contrary to the policies of the Framework which indicate that developments should be visually attractive and be sympathetic to the local character of the surrounding built environment.

Living conditions

17. Policy D6 of the LP seeks to ensure that developments provide high quality designed housing and sets out the minimum internal space standards that all new developments are required to meet in line with the nationally described space standards (NDSS). Similarly, Policy 4 of the BLP states that new dwellings should meet the NDSS as set out in LP Policy D6 and provide external amenity space.
18. The proposed one-bedroom unit would be set over two floors. The minimum space standard for a 1-person 1 bedroom dwelling over one storey is 39sqm (37sqm with a shower room). However, for units over two-storeys no minimum space standard is set out for a 1-person unit, with a 2-person one-bedroom unit over two floors requiring a minimum of 58sqm.
19. From the evidence before me the proposal would provide for 34sqm. This would fall short of the space standards for both unit types. Whilst the inclusion of the dormer windows would provide for light and outlook, the shortfall is significant when assessed as a 2-person 1-bed unit over two floors.
20. The appellant submits that the dwelling would be suitable for a single person or couple. Nevertheless, the space standards are applicable to all unit types, regardless of who occupies the property. Irrespective of the open plan living arrangements the proposal would fail to meet the NDSS and would therefore be substandard in terms of living accommodation.
21. The proposal would be provided with some external garden space, albeit limited, due to the need to accommodate vehicular parking and bin storage. Furthermore, given its prominent location combined with the absence of any substantial boundary treatment, the proposed external area would not provide for private amenity space.
22. I accept that existing dwellings in the locality have limited garden space and that there are areas of public open space proximate to the appeal site. Nevertheless, this would not overcome the shortfalls of the proposed accommodation.
23. Concluding on this main issue, I am not satisfied that the proposed development would provide acceptable living conditions for the future occupiers, with particular regard to internal and external space standards. Accordingly, it would conflict with Policy 4 of the BLP and Policy D6 of the LP. Collectively these policies seek to ensure, amongst other matters, the provision of appropriate space and amenity standards. I also find conflict with the Framework which aims to secure a good standard of amenity for future occupiers of land and buildings.

Highway safety

24. Old Hill is a narrow residential road. With double yellow lines either side of the appeal site at Old Hill and Cudham Lane North. At my site visit, I observed a high demand for parking, with limited opportunities for additional on-street parking in the locality of the appeal site. However, I acknowledge that the availability of on-street parking may rise and fall during the course of the day.
25. The submitted drawings indicate dropped kerbs either side of the parking area and space to accommodate a vehicle. However, I share the Council's concerns

as to whether or not a car could be fully accommodated on the appeal site owing to the limited dimensions of the appeal site.

26. Whilst technical details in respect of the dropped kerbs could be secured by way of planning condition, I am not satisfied that it has been demonstrated that the proposal would not adversely impact upon highway safety.
27. For the reasons stated, I cannot be satisfied that the proposal would not have a harmful effect on highway safety with particular reference to parking. Accordingly, the proposal conflicts with Policies 30 and 32 of the BLP which collectively, seek to secure appropriate parking provision.

Other considerations

28. The Framework advances that substantial weight be given to any harm to the Green Belt. 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.
29. The appellants have set out a series of benefits which are argued in support of the case for approval, and I have considered and taken them all into account.
30. The proposal would make efficient use of land. The proposed development would result in an additional dwelling which would make a positive contribution to local housing supply, including adding to the variety of house types. The Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirements of an area and are often built out relatively quickly.
31. The site is well located and within close proximity to a range of services, facilities and public transport. There would be social and economic benefits associated with the proposal relating to construction employment and spend within the local economy once the dwelling is occupied. However, given the scale of the proposal these are matters to which I attach limited weight.
32. Immediately adjacent to the appeal site is a Grade II listed Coal Tax post at junction with Cudham Lane, Old Hill (List Entry No. 1186817). The proposed positioning and alignment of the access means that it would remain in place undisturbed and continue to be read within the highway and wider street scene. As such, there would be no harm to its significance and there would be no conflict with the heritage policies of the development plan. Neither would there be any conflict with the heritage policies contained within the Framework or with the requirements of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
33. I note the evolution of the proposal from a previously refused scheme. However, I have considered the appeal proposal on its own merits based on the evidence before me.
34. Taking all these considerations into account, when considered cumulatively, the benefits in favour of approval merit limited weight.

Planning Balance and Conclusion

35. By definition the proposal would constitute inappropriate development in the Green Belt. I have not found harm to the Green Belt in terms of openness. Nevertheless, the Framework requires that the harm by reason of

inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.

36. I have examined all the benefits and arguments in favour of the proposed development, and cumulatively these other considerations merit limited weight in favour of approval. For the reasons I have explained, the harm to the Green Belt should be afforded substantial weight. Therefore, the substantial weight to be given to the Green Belt harm is not clearly outweighed by other considerations sufficient to demonstrate very special circumstances.
37. The Council is unable to demonstrate a Framework compliant housing land supply. In such circumstances paragraph 11 d) of the Framework indicates, that where the policies which are most important for determining the application are out-of-date, permission should be granted, unless the application of policies in the Framework to protect areas or assets of particular importance provide a clear reason for refusing the proposal. Footnote 7 identifies the Green Belt as such a protected area. For the reasons I have explained above, the harm to the Green Belt forms a clear reason for refusing the development proposed.
38. For these reasons, I conclude that the development conflicts with the development plan as a whole. It also conflicts with the Framework. I have considered all other matters raised, but none clearly outweigh those conflicts. Consequently, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR