



Appeal Decision

Site visit made on 1 October 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 NOVEMBER 2024

Appeal Ref: APP/G5180/D/24/3342642

Little Orchard, Barnet Wood Road, Hayes, Bromley BR2 8HJ

- 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 Mark Rutherford against the decision of the Council of the London Borough of Bromley.
 - The application Ref is 23/04823/FULL6.
 - The development proposed is a part one/two storey side extension.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs in relation to this appeal was made by the appellant against the Council of the London Borough of Bromley. This application is the subject of a separate decision.

Preliminary Matters

3. Following the submission of the appeal, a draft revision to the National Planning Policy Framework was issued for consultation alongside a Written Ministerial Statement. Neither introduce issues relevant to the pertinent considerations in this appeal and therefore I have not sought comments on it from the parties.
4. I have also dealt with another appeal APP/G5180/D/24/3349643 on this site. That appeal is the subject of a separate decision.
5. I note that paragraph 7.1.1 of the Officer's report, states that the proposed development is a resubmission of application 23/00227/FULL6 rather than 07/02106/FULL6. I note both applications are listed in the Planning History section of the committee report. As application 23/00227/FULL6 shares similarities with the appeal proposal, the Officer was not incorrect in stating that the proposal was a resubmission of this more recent application. I have considered the planning history of the appeal site, where relevant, within my reasoning below.

Main Issues

6. The main issues are:
 - i. whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - ii. the effect of the proposal on the openness of the Green Belt; and

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

Reasons

Inappropriate Development

7. The National Planning Policy Framework 2023 (the Framework) explains that the essential characteristics of Green Belts are their openness and permanence. There is a general presumption against inappropriate development in the Green Belt (GB) unless very special circumstances exist. The construction of new buildings should be regarded as inappropriate, but for defined exceptions.
8. The Local Development Framework Local Plan, London Borough of Bromley Planning Division 2019 (LP) Policy 49 states that certain forms of development are not inappropriate in the GB. This includes the 'extension or alteration of a building that it does not result in disproportionate additions over and above the size of the original building'. This stance is reflected in paragraph 149 of the Framework which also allows for extensions to existing buildings in the GB, as an exception, on the provision that they are not disproportionate.
9. Further, criterion a of Policy 51 of the LP allows extensions to dwellinghouses in the GB provided 'the net increase in the floor area over that of the original dwellinghouse is no more than 10%, as ascertained by external measurement'.
10. Floor plans of the dwelling as originally built have not been provided and the main parties have not provided any quantitative data relating to the original floor area of the building. However, based on the evidence before me, the original dwelling appears to have been extended previously at ground floor level including a single storey rear extension to the lounge and dining room, a car port and a front porch extension.
11. The cumulative floor area of the existing extensions appears to be greater than 10% of the original. This assessment reflects the view of the Inspector for a recent appeal for an extension to the property¹, which is a material consideration in my assessment of the proposal. Further, there is no substantive evidence before me to demonstrate that the existing extensions on Little Orchard are less than 10% of the original. With this in mind any additional extensions, however small, would contribute to a net increase in the floor area over that of the original dwellinghouse by more than 10%. Therefore, the appeal scheme would constitute inappropriate development in the GB. For the purposes of the Framework this would also be harmful to the GB by definition.

Effect on Openness

12. The Framework indicates that openness is an essential characteristic of the GB. The proposal would introduce a further element of built form to the site, albeit that it would be as an extension to an existing building. The development would inevitably increase the scale and mass of the dwelling. As a result, both in visual and spatial terms, the openness of the GB would be reduced.

¹ APP/G5180/D/23/3321589

Other Considerations

13. I note that Planning Permission was granted in 2007 for a part one/two storey side extension². This permission was never implemented, and the appellant asserts that the appeal proposal reflects this previously approved scheme. If there is no fundamental change in local or national GB policy since 2007 then the appeal proposal should be determined in a like manner. However, since this initial approval the development plan has changed. This includes the adoption of the London Plan 2021 and the current LP, as well as the introduction of the Framework in place of national planning guidance. I have not been provided with all of the policies and guidance that were in place at the time of the 2007 decision, in their entirety. Therefore, it has not been clearly demonstrated that the wording of all relevant policies remains unaltered. Further, full details of the approval for this application have not been provided. As it was issued several years ago special circumstances pertinent to the decision may have changed. For these reasons I afford it only moderate weight.
14. The Framework states that very special circumstances will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. I have found that the proposal would be inappropriate development. The proposed extension would also cause a loss of openness, although given the scale of the extension and the extent of the GB, the harm arising from the development in this respect would be limited.
15. My attention has been drawn to an extension that was approved by the Council on neighbouring property Barnet Mead³, this property also had an earlier approval for the erection of an extension⁴. Notwithstanding this, full details of each approval have not been provided. As such, I cannot be certain that the extent of the extensions approved on this property form a direct parallel to this appeal, or were approved under the current development plan, as such I do not afford them weight in my assessment of the appeal.
16. I understand that the site may benefit from permitted development rights. Still, it is not clear to me that the alternative scheme suggested would be permitted development. It is open to the appellant to apply to the Council for a separate determination on this matter. Further, allowances for larger extensions should be subject to a separate determination for prior approval, regardless of the outcome of the appeal. Consequently, I find the suggested alternative to have limited weight in the determination of the appeal.
17. Inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. I have addressed other considerations advanced and found them to be worthy of only moderate weight. Since substantial weight should be attributed to any harm to the GB, it is evident that they would not clearly outweigh the harm. Therefore, the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

² 07/02106/FULL6

³ 15/00827/FULL6

⁴ 07/03783

Other Matters

18. The appeal site is adjacent to the Bromley, Hayes & Keston Commons Conservation Area (CA). The Council raised no concerns in relation to design or the impact of the proposal on the setting of the CA. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of Conservation Areas. Given that the proposal would, be sympathetic to the existing building, and external materials can be controlled by condition, I have no reason to disagree with the Council's assessment in this regard. However, a lack of harm in this respect would be a neutral factor in my assessment of the appeal scheme.
19. Within the appeal statement the appellant asserts that the Chief Planning Officer suggested that planning permission would be granted for the proposed scheme. Whilst this is regrettable, advice provided by the local authority cannot pre-empt the democratic decision making process or a particular outcome.

Conclusion

20. For the reasons given above the appeal scheme would conflict with the development plan and there are no material considerations, including the approach of the Framework and worthy of sufficient weight, which would indicate to the contrary. Therefore the appeal is dismissed.

C Livingstone

INSPECTOR