



Appeal Decision

Site visit made on 15 November 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 DECEMBER 2024

Appeal Ref: APP/G5180/W/24/3341148

Land Adjacent To 352 Main Road, Biggin Hill, Bromley TN16 2HN

- 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 and Mrs D and V Richardson against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/23/02624/FULL1.
 - The development proposed is the removal of the existing structure and erection of a new single storey one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Policy 64 of the London Borough of Bromley Local Plan, January 2019 ("the BLP") relates to agricultural dwellings and was cited in error on the Council's decision notice. This Policy is not relevant to this appeal and therefore forms no part of my consideration of it.

Main Issues

3. The Council is not defending reason for refusal number 3. On the basis of the evidence before me, including the submitted Preliminary Ecological Appraisal, I see no reason to reach a contrary view. The main issues in this appeal are:
 - Whether the proposed development would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework ("the Framework").
 - 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.
 - If the proposal is 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 required to justify it.

Reasons

Whether inappropriate development

4. Policy G2 of The London Plan 2021 ("TLP"), states that the Green Belt should be protected from inappropriate development. Development that would harm

the Green Belt should be refused except where very special circumstances exist.

5. BLP Policy 49 states that the new buildings within the Green Belt will be inappropriate, unless for specified purposes. These include limited infilling in villages and the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development. Inappropriate development within the Green Belt will not be permitted unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm.
6. In these respects, BLP Policy 49 is consistent with the exceptions to inappropriate development in the Green Belt in Paragraphs 154.e) and 154.g) of the Framework. Whether a site is within a village is a matter of judgement based on a site's particular characteristics and its context when assessed 'on the ground'. This reflects the judgement in *Julian Wood v SSCLG & Gravesham Borough Council* [2015] EWCA Civ 195, as referred to in the Hooley¹ appeal.
7. The appeal site lies within an area referred to by the appellant as stretching some 0.9km along Main Road, from the dwelling at Number 336 to the north and the Baptist Church to the south. Development within this area consists of modest number of residential properties, often with spacious front gardens accommodating car parking, and the occasional commercial premises, including a Public House and premises retailing goods connected to countryside activities.
8. Those services and facilities, along with dwellings of the sizes and styles found in the area of the appeal site, could also be found in some villages and suburban areas. Street furniture of the types found in the area of the appeal site, including bus stops, streetlights, telegraph poles, and road signage could also be found in villages and suburban areas. However, to my mind none of these features or characteristics would be exclusive to villages or larger urban areas. In the absence of any formal definition of a village they would not necessarily be indicative of a village location.
9. Whilst there are some relatively well consolidated rows of buildings fronting the western side of Main Road, particularly several dwellings to the south of Number 378, there are also a number of gaps within the rows of buildings, some of which are relatively wide. The pattern of development on the eastern side of the road is particularly sparse and scattered.
10. The pattern of development in villages can vary. Nonetheless, in the absence of any formal definition, the settlement pattern of an area would be a relevant factor in identifying on the ground whether a particular site lies within a village. An absence of signage indicating a village would also be relevant.
11. The area referred to by the appellant consists of a somewhat sporadic ribbon of development set amongst fields and blocks of woodlands, and clearly detached from Biggin Hill to the north and Westerham much further to the south, and not indicated on the ground as a village by any obvious signage. In assessing the appeal site's particular characteristics and context on the ground, I find that the pattern of development in the area of the appeal site

¹ APP/L3625/W/23/3319268

would not be indicative of a village location. Except for the Public House, none of the few services and facilities in the area of the appeal site would appear to offer the day-to-day services and facilities normally expected within a village to support the needs of residents.

12. In dismissing an appeal² in 2017 for a dwelling at the nearby property of Number 378 Main Road, an Inspector reached similar findings with regard to the pattern of development and the services within the area of the appeal site before me. The 2017 appeal decision is a consideration of very significant weight given the proximity of the appeal site before me to Number 378.
13. Whilst a previous Inspector in 2013³ determined that the site at Number 378 was in a village, with reference made to it being within Westerham some distance to the south, I accord greater weight to the 2017 appeal decision, which considered both that earlier decision and a later dismissed appeal in 2014⁴ which also found that Number 378 was not within a village.
14. In the Banstead⁵ appeal, the Inspector decided that facilities or services, or any identifying settlement name, were not necessarily required in order for a group of dwellings to be a village. However, in the absence of any definition of a village in local or national policy, the Banstead Inspector's assessment of the particular characteristics of that appeal site and its context is just one way of identifying whether or not a particular site lies within a village, and my findings in this decision are based on this specific proposal at this appeal site.
15. Whether or not a site was located within a village was also considered in appeals at Biddulph Moor⁶, Bobbington⁷ and Culverstone Green⁸. Like the Banstead appeal, some similarities can be drawn between the approaches taken by those Inspectors in considering the factors relevant to deciding whether a particular site is located in a village.
16. However, compared to the previous appeal decisions for a dwelling at Number 378 Main Road, which relate specifically to the area of the appeal site before me, those appeal decisions relate to development on different sites and in different areas. Consequently, they are of relatively limited relevance to my specific considerations in this appeal.
17. Based on the evidence before me and my experiences at the site visit, I find that the character of the area, which is generally defined by a somewhat sporadic ribbon of development, together with the absence of day-to-day facilities apart from the public house, leads me to conclude that the appeal site is not within a village for the purposes of the exceptions in BLP Policy 49 and Framework Paragraph 154.e).
18. In the absence of an alternative definition of infilling, I have had regard to that used in the Orpington⁹ appeal, which is development that fills a small gap in an otherwise built frontage. The appeal site includes a narrow tract of land that extends back from the road alongside some garaging and between the

² APP/G5180/W/17/3169105

³ APP/G5180/A/13/2198048

⁴ APP/G5180/A/14/2222405

⁵ APP/L3625/W/18/3210381

⁶ APP/B3438/W/18/3214689

⁷ APP/C3430/W/18/3207145

⁸ APP/K2230/W/21/3273757

⁹ APP/G5180/W/16/3166005

terraces to the north and south. This part of the appeal site forms a small gap between those terraces in an otherwise built frontage to the road.

19. However, the proposed dwelling would be sited further back from the road on a wider part of the appeal site that is currently occupied by the remains of the existing building. It would be set back from the road behind the rear wall of the terrace to the south, and beyond the west facing wall of the terrace to the north. In this position it would not infill the gap between those buildings in the built frontage, and based on the evidence before me, it would not constitute infilling under the definition referred to above.
20. Taking all the above into account, I conclude on this issue that the proposed dwelling, whilst 'limited' in scale, would not constitute infilling in a village. Therefore, it would constitute inappropriate development in the Green Belt, in terms of BLP Policy 49 and Framework Paragraph 154.e).

Openness

21. The proposed dwelling's bulk and massing would be significantly greater than that of the remains of the former building it would replace, which consists of low height walls and hardstandings. Consequently, the proposed dwelling would harmfully reduce Green Belt openness in spatial terms, and in visual terms when seen in close distance views from the road. I have based my assessment of this matter on the drawings before me. Therefore, removing permitted development rights for future development within the proposed dwelling's curtilage would not alter this conclusion.
22. For these reasons, the proposed development would cause a moderate degree of harm to Green Belt openness. Even if the proposed dwelling was located on previously developed land, it would have a greater impact on Green Belt openness than the existing development. Consequently, it would constitute inappropriate development under the exceptions in BLP Policy 49 and Framework Paragraph 154.g).

Character and appearance

23. The appeal site is set amongst a predominantly loose knit collection of detached and terraced dwellings of different sizes and appearances, and the occasional commercial premises. The buildings and the irregular spaces between them contribute to a varied street scene in the area around the appeal site and they allow views across the open land beyond, including of the trees against the skyline. Those views reinforce the sense that the sporadic and predominantly ribbon form of development along Main Road is embedded within a rural landscape.
24. The few building materials that were present on the appeal site were mostly stacked around the edges of the land in low height and sparsely distributed piles. These had little visual effect on the appeal site, which is mostly closely mown grass, and were screened in street level views. The appeal site does not have the character or appearance of a builder's yard.
25. The terraces to the north and south of the appeal site are set relatively close to the road. The buildings beyond them tend to have relatively wide frontages to the road. Although modest in scale by comparison to the terraces, the proposed dwelling's bulk and massing would be significantly greater than the

remains of the former building it would replace, which was not readily visible in street level views.

26. Set mostly to the rear of the terraces and with a very narrow frontage to the road, the proposed dwelling would be inconsistent with the established predominantly frontage pattern of buildings in the area. In this position the proposed dwelling would consolidate built form in the row. It would have the effect of obstructing views across the appeal site of the open land to the west, including the trees against the skyline, and harmfully eroding the loose knit pattern of buildings in the street scene.
27. The harm to the character and appearance of the area would be moderate and relatively localised in extent. Neither the proposed external materials of the dwelling, the additional planting or the tree protection measures, which could have been secured by condition in accordance with TLP Policy G7 or BLP Policy 73, would overcome the harm identified.
28. I therefore conclude that the appeal proposal would harm the character and appearance of the area, contrary to TLP Policy D3 and BLP Policies 3 and 37, which seek to ensure that development does not, amongst others, have unacceptable impacts upon the character, appearance and context of an area.

Other considerations

29. Construction of the proposed one-bedroom dwelling would generate some limited employment opportunities and spend in supply chains. Its resident household would make a commensurately small contribution to the facilities and services in the wider area, most likely in the town of Biggin Hill. These could be accessed by walking via the roadside footpath or public transport from nearby bus stops. However, given the small scale of the proposed development, these factors attract limited weight in its favour.
30. The Council is currently unable to demonstrate a 5-year supply of housing land and the evidence suggests the shortfall is significant. The evidence also suggests that Bromley has the largest elderly population of any London borough.
31. Even if the proposal met the Council's policy definition of Specialist and Older Peoples Accommodation, the proposed one-bedroomed bungalow, would make only a small contribution to addressing any acute shortage of such accommodation. Even if the appeal site was previously developed land in its entirety the benefits of a single dwelling in reusing such a small amount of such land, including its contribution to boosting housing supply in the Council's area, would weigh only moderately in its favour.
32. There is limited evidence before me to demonstrate that the appellants, who are seeking elderly living accommodation in the Bromley area where they have historical roots and family ties, have actively investigated alternative accommodation options that might be available to them. As such, their personal circumstances hold limited weight in favour of the proposal.
33. The proposed dwelling could be built to exceed the Passive House Plus standards, and it could incorporate devices to generate and store renewable energy, thus reducing energy consumption. Furthermore, there appears sufficient space on the appeal site to enhance ecology and deliver a net gain in biodiversity. However, given the small scale of the proposed development,

these environmental benefits weigh only moderately in its favour, even if it were to achieve carbon neutrality.

34. Whilst the proposal is supported by several interested parties who consider it to be a positive addition to the area, I have disagreed for the reasons set out above. Therefore, this support is of limited weight in favour of the proposal.
35. The evidence indicates that the proposed development would cause no harm to highway safety, flood risk or the living conditions of nearby occupiers. Harm to ecology could be avoided as set out in the Preliminary Ecological Appraisal. Relevant internal space standards would be met. I see no basis to disagree with the Council's assessment on the matters. However, an absence of harm in these respects would be requirements of any well-designed scheme and they do not carry positive weight in favour of the appeal proposal. The effects of any trees previously removed from the appeal site are a matter for the Council.

Other Matters

36. On the evidence before me, dismissing this appeal could lead to the intended future occupiers of the proposed dwelling being unable to find a suitable home for "elderly living accommodation", which would engage the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010. This includes having due regard to the need to eliminate unlawful discrimination and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (which includes age and disability), and persons who do not.
37. I have limited evidence that the intended future occupiers of the proposed dwelling have actively investigated suitable alternative accommodation options in the area. In having due regard to the PSED, the adverse effects of dismissing this appeal on persons with protected characteristics would, on the basis of the evidence before me, be proportionate in this instance when balanced against the well-established and legitimate planning purposes of national and local planning policies, particularly those relating to the Green Belt.

Green Belt Balance

38. Paragraphs 152 and 153 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, and that substantial weight should be given to any harm to the Green Belt. I must therefore give substantial weight to the appeal proposal's harm to the Green Belt.
39. The other considerations do not clearly outweigh the totality of the harm to the Green Belt. The proposal's harm to the character and appearance of the area adds further weight against it. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
40. Under Footnote 7 to Paragraph 11.d)i. of the Framework, the appeal proposal's adverse effect on the Green Belt would provide a clear refusal reason. Therefore, the proposal does not benefit from the Framework's presumption in favour of sustainable development.

Conclusion

41. For the reasons given above, I conclude that the appeal proposal would conflict with TLP Policies D3 and G2, and BLP Policies 3, 37 and 49. This brings the development into conflict with the development plan as a whole. The material considerations, including the provisions of the Framework, do not indicate that a decision should be taken other than in accordance with that plan. Therefore, the appeal should be dismissed.

G Sylvester

INSPECTOR