



Appeal Decision

Site visit made on 28 November 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2024

Appeal Ref: APP/H2265/D/24/3343956

1 Greenways, London Road, Addington, West Malling, Kent ME19 5AN

- 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 Binda Katnoria against the decision of Tonbridge and Malling Borough Council.
 - The application Ref is TM/23/03100.
 - The development proposed is a single storey rear extension and attached side garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government recently published a revised National Planning Policy Framework ("the Framework"). There are no material changes relevant to the substance of this appeal and therefore I am satisfied that no one will be prejudiced by the changes to the national policy context. All references to the Framework in this decision relate to the revised document.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the Framework.
 - The effect of the proposed development on the openness of the Green Belt.
 - 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' (VSC) required to justify the proposal.

Reasons

Whether inappropriate development

4. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 2007 ("the CS"), states that national Green Belt policy will be applied generally to the area west of the A228, including the appeal site.
5. Paragraph 153 of the Framework requires that substantial weight is given to any harm to the Green Belt and that inappropriate development is, by

definition, harmful to the Green Belt and should not be approved except in VSC. Framework Paragraph 154 states that development in the Green Belt is inappropriate unless one of the exceptions listed applies. Based on the evidence before me the relevant exception is in Framework Paragraph 154.c) which states: *"the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building"*,

6. In applying this exception, the Framework does not define the meaning of 'disproportionate'. The 'original building' is defined in the Framework's glossary as a building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.
7. The front elevation of the appeal dwelling has the appearance of a semi-detached dormer bungalow, whereas the rear elevation comprises of sizeable 2 storey gables with a short external balcony. The form of the appeal dwelling is therefore consistent with the evidence before me which suggests that a rear 2 storey extension was added to the dwelling under a planning permission granted in the year 2000. This followed the approval of a single storey extension in the mid-1980s.
8. The evidence indicates that those relatively recent extensions added a considerable amount of built form to the original dwelling, increasing its footprint and floor space. Whilst the appellant's calculations indicate that the appeal proposal would increase the existing dwelling's footprint by a relatively small amount, the Council's calculations indicate that the appeal development, when taken with the sizes of those previous extensions, would increase the footprint and floorspace of the original building by approximately 70% and 74% respectively. Neither party has disputed these calculations, and I see no basis in the evidence before me to disagree.
9. The proposed replacement garage element of the proposal would, if considered on its own, be comparable in scale to the existing garage. However, the rear projecting lean-to element of the proposed development would add built form and volume to the dwelling where only an external open balcony exists. Cumulatively the built form of the proposed development would increase the volume and bulk of the dwelling, and thus its size. When combined with the sizes of the extensions previously added to the original dwelling, the proposed extensions would amount to a considerable cumulative increase in size, over and above the size of the original dwelling.
10. Consequently, when taken together with those previous extensions, the proposed extensions in this appeal would constitute a disproportionate addition over and above the size of the original building. Under the Framework's exception in Paragraph 154.c), I therefore conclude that the appeal proposal would be inappropriate development in the Green Belt.

Openness

11. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. The proposed attached garage would be similar in size and shape to the existing detached garage, and its siting would reduce slightly the spread of built form across the width of the appeal site. However, notwithstanding the neighbouring dwellings in the row and other sizeable buildings within the area, the openness of the Green Belt, including above the

outdoor balcony, is evident around the property. Therefore, the built form and massing of the rear projecting lean-to element of the proposed development, which would more or less subsume the external open balcony, would result in a harmful loss of openness, albeit to a limited and localised extent.

Other considerations

12. The proposal would enhance the living conditions of the occupiers of the property, providing additional internal living space and expansive glazing in the rear wall. This would improve the outlook from rear facing rooms and the amount of daylight reaching them.
13. Compared to the existing narrow pathway between the dwelling and garage, the proposal would provide a wider, step-free pedestrian route. This would be particularly beneficial for persons with restricted mobility, such as a wheelchair user, seeking access to the garden.
14. However, I am not persuaded on the evidence before me that the accessibility benefits of this would be contingent on the entirety of the proposed development. There is limited evidence to demonstrate that the rear extension over the balcony would be necessary in order to relocate the garage as proposed. Taken together these benefits are of modest weight in favour of the appeal proposal.
15. The proposed development would cause no harm to the living conditions of nearby residents, heritage assets or to the area's character or appearance, which the evidence suggests lies within a National Landscape¹, and generally comprises sizeable buildings in rural surroundings. No third party has raised any objection to the proposal. However, an absence of harm in these respects would be requirements of any well-designed development. They are neutral factors that do not add weight in favour or against the development.
16. The proposal would not affect the boundaries of the Green Belt, the alteration of which are subject to materially different tests to the VSC test which applies to a proposal for inappropriate development. It therefore has limited relevance to my considerations in this appeal and does not alter my conclusions above.

Other Matters

17. The appeal planning application was not determined by the Council within the statutory timescale. However, this has not influenced my decision on this appeal which is necessarily based on the planning merits of the proposal, considered against the development plan in force for the area and material considerations.
18. With regard to the provision of a wider, step-free pedestrian route between the front of the property and its rear garden, I have had regard to the Public Sector Equality Duty² (PSED). This includes having due regard to, amongst others, the need to eliminate unlawful discrimination and to advance equality of opportunity between persons who share a relevant protected characteristic, including disability and age, and persons who do not share it.
19. Dismissing the appeal would be expected to have negative effects on those with protected characteristics under the PSED by perpetuating the existing

¹ Areas of Outstanding Natural Beauty in England became National Landscapes in November 2023

² Section 149 of the Equality Act 2010

means of access to the garden. However, on the evidence before me, I find that the potential adverse effects of dismissing this appeal on a person with protected characteristics would be proportionate when balanced against the legitimate planning purposes of Green Belt policy, including the great importance that Government attaches to Green Belts.

Green Belt Balance

20. The proposal would be inappropriate development and would harm Green Belt openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in VSC. Harm to the Green Belt should be given substantial weight. VSC 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.
21. The weight that I have given to those other considerations would not clearly outweigh the totality of the harm to the Green Belt by reason of inappropriateness and loss of openness. Consequently, the VSC necessary to justify the proposed development do not exist and therefore the proposal would conflict with CS Policy CP3 and the Framework's Green Belt policies.

Conclusion

22. For the reasons given above, I conclude that the conflict with CS Policy CP3 brings the proposed development into conflict with the development plan as a whole. There are no material considerations of sufficient weight, including the Framework's provisions, to outweigh this finding. Therefore, the appeal is dismissed.

G Sylvester

INSPECTOR