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## Appeal Decision

Site visit made on 31 March 2025

by **S Harley BSc(Hons) M.Phil MRTPI ARICS**

an Inspector appointed by the Secretary of State

Decision date: 11 April 2025

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**Appeal Ref: APP/G5180/W/24/3351225**

**67 Leaves Green Road, Keston, Bromley BR2 6DE**

- 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 Mrs Laura O'Connor against the decision of the Council of the London Borough of Bromley.
  - The application Ref is DC/23/03979/FULL1.
  - The development proposed is demolition of an existing dwelling and the erection of three bedroom dwelling. (Part retrospective).
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) came into effect in December 2024. The main Parties have had the opportunity to comment on its implications and comments received have been taken into account. References in this Decision to paragraph numbers and footnotes are those of the revised Framework. Amongst other changes the concept of grey belt land is introduced.

### Main Issues

3. The main issues are whether or not the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and the effect of the dwelling on the character and appearance of the area.

### Reasons

#### *Whether or not inappropriate development in the Green Belt*

4. Leaves Green Road is a ribbon of mainly residential development between Keston and Biggin Hill. Number 67 was a bungalow (the original dwelling) adjoining other residential properties although this original dwelling was demolished in August 2023. There are open fields to the rear of these and dwellings on the opposite side of Leaves Green Road. The whole area is within the Metropolitan Green Belt.
5. The Government attaches great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open. Paragraph 143 of the Framework identifies five purposes of Green Belts. Policy 49 of the Bromley Local Plan 2019 (the LP) is similar to Paragraph 154 of the Framework in stating that the construction of new buildings on land within the Green Belt will be inappropriate unless the development comprises certain specified exceptions.

Policy G2 of the London Plan 2021 (the London Plan) protects the Green Belt from inappropriate development. Paragraph 52 of the LP provides for a replacement dwelling that does not result in a material net increase in floor area. A newly introduced Paragraph 155 of the Framework provides for development on grey belt land in certain circumstances.

6. Development of a dwelling would be inappropriate unless one of a number of exceptions apply. It is unfortunate that the original dwelling was demolished and development commenced before an application was made for planning permission as this means the exception to Green Belt policy tests are not straightforward. Nevertheless, a material consideration is the relatively recent presence of the original dwelling. The proposed dwelling would be larger than original and the bulk of building at first floor would be much greater whether or not part of the ground floor would be double heighted areas.
7. It is clear that the site was lawfully occupied by a permanent structure with areas of hard standing up until about two months before the application was made. The Officer Report states that the proposal would amount to the re-development of previously developed land although this position changed in the Council's Statement in respect of the appeal.
8. I acknowledge the Council's view that it is likely that the site was substantially cleared before development commenced. However, it is not possible to conclusively establish that the original foundations were completely removed and it seems to me to be very unlikely that the remains of the original dwelling and hard surfacing would have blended into the landscape in that short time. On this basis I find that the site comprises previously developed land within the terms of the Glossary to the Framework. However, there would be substantial harm to the openness of this part of the Green Belt by the construction of a building where there is none at present so the proposal does not clearly benefit from the exception at Paragraph 154(g) of the Framework or in Policies 49 of the LP or G2 of the London Plan.
9. There is currently no dwelling on the site to be replaced or to attract permitted development rights for extensions. Technically therefore the proposal would not benefit from the exception for replacement dwellings that are not materially larger than the one it replaces at Paragraph 154(d) or in Policies 49 of the LP or G2 of the London Plan.
10. Policy 49 of the LP does not define materially larger in terms of the exception for a replacement dwelling and this is a matter of judgement<sup>1</sup>. However, Policy 52 of the LP, which also relates to replacement dwellings in the Green Belt, clearly states the net increase should be assessed as externally measured floor area. The Parties have different figures in respect of the sizes of the original and proposed dwellings but no detailed calculations have been provided.
11. The Council's calculations assume that the first floor would have the same floor space as the ground floor with a calculated floor space increase of 63% compared to the original building. The appellant has provided plans of an architectural model which shows the externally measured floor space increase would be 12.2%. This would exceed the guideline of 10% in the supporting text to Policy 52 of the LP. Accordingly, the proposal does not clearly benefit from the exception at Paragraph

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<sup>1</sup> Appeal Ref 3320371

154(d) of the Framework or in Policies 49 of the LP or G2 of the London Plan. For completeness I have considered the volumes calculated by the Parties. The Council considers there would be a 67% increase in volume whereas the appellant calculates there would be a 54% increase.

12. Paragraph 155 of the Framework states the development of homes in the Green Belt should not be regarded as inappropriate where it utilises grey belt land subject to a number of criteria. Annex 2 to the Framework defines grey belt as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143 of the Framework.
13. Purpose (a) is to check the unrestricted sprawl of large built-up areas and purpose (b) is to prevent neighbouring towns merging into one another. In this case the site is a relatively small gap between other dwellings and the proposal would not result in residential uses or buildings encroaching into the countryside beyond the established rear boundary of such uses. For these reasons the appeal site does not strongly contribute to Green Belt purposes (a) or (b). Nor does the site form part of the setting and special character of an historic town so does not contribute to purpose (d). Therefore the site can be considered to be grey belt land.
14. Due to its size and location the development of a dwelling on the site would not affect the ability of the remaining Green Belt across the area of the plan from serving all five of the Green Belt purposes in a meaningful way. As the Council cannot demonstrate five years supply of deliverable housing land there is a demonstrable unmet need for dwellings so the proposal would meet the requirements of Paragraph 155(a) and (b).
15. The appeal site is in area with a PTAL 1b-2 rating (where 0 has the poorest access and 6b the best access to public transport services). Occupiers of the proposed development would be likely to be more dependent on private transport than public transport than those in an area with better public transport accessibility. However, the site formerly contained a dwelling and there is no objection from the Council in this respect. There are bus routes along the main A223 and bus stops near the junction with Blackness Lane and I find no reason to conclude that the site would not be a sustainable location. Accordingly the proposal would meet the requirements of Paragraph 155(c).
16. The proposal for a single dwelling on a site area of just over 1,000 sq. metres would not amount to major development in terms of the definition in Annex 2 to the Framework. Accordingly the proposed development does not have to meet the "Golden Rules" of Paragraph 155(d).
17. For the reasons set out above I conclude that the proposal would not be inappropriate development in the Green Belt because of the exception allowed under Paragraph 155 of the Framework whether or not the proposal amounts to an exception under Policies 49 or 52 of the LP or G2 of the London Plan. Accordingly I have no need to consider openness further or whether very special circumstances exist.

#### *Character and appearance*

18. The buildings along this part of Leaves Green Road generally have parking and garden areas between the buildings and the road. These provide an attractive

setting for the dwellings. The position of the proposed dwelling would be similar to neighbouring properties with sufficient room for off-street parking/turning areas. The plans do not show any areas of soft landscaping but as there would be enough space this could be secured by condition.

19. There is a mix of styles, sizes and forms of dwellings along Leaves Green Road mainly of traditional dwelling forms with pitched or hipped roofs. There are full two storey properties with higher eaves levels but there are many bungalows, and many with rooms in the roof space. This results in a general character of spaciousness above first floor level although many properties have large dormers which erode this spaciousness to some extent.
20. The original dwelling was a bungalow as is the adjacent property at No. 65. However, planning permission was granted for a replacement dwelling at No 69, which although it has parking and garden to the front, is a very different form of dwelling. It has a glazed section at first floor which links two cuboid forms, all with flat roofs and large areas of glazing, a variety of facing materials and strong vertical and horizontal detailing. The overall effect is of an uncompromisingly modern building with an open, light weight appearance.
21. The appellant states that the building at No 69 has been the inspiration for the design approach at the appeal site. The proposed dwelling would be of similar size and shape to that of the replacement dwelling at No 69 and the proposal would not be unacceptable in that regard. However, in my judgement the size, disposition and ratio of the windows for the proposed dwelling would result in overly extensive areas of solid brickwork on the front elevation particularly at first floor level.
22. I acknowledge that there would be some articulation in the proposed building. Part of the front elevation would be set back, there would be two different brick colours, the front door would be recessed, the windows would have deep reveals and there could be some minor stepping out of brickwork detailing as depicted on the 3D view. However, although these would allow for some subtle shadowing and variation to add some interest, this would not overcome the discordant appearance of a more traditional front elevation incongruously placed below a flat roof. In my judgement the appearance of the front of the building would fall uncomfortably between a traditional and a modern appearance such that it would not amount to sufficiently high quality architectural design in this location.
23. For these reasons I conclude the proposal would not amount to good design and would have a harmful effect on the character and appearance of the area. There would be conflict with Policies D3 and D4 of the London Plan; Policies 3 and 37 of the LP and Chapter 12 of the Framework in this respect.

### **Other Matters**

24. I have considered the appeals cited by both Parties as to whether the proposal amounts to a replacement dwelling and/or previously developed land. The cases cited appear to pull in different directions although only limited information has been provided. In this case neither of these matters would have lead me to a different outcome given my conclusions in relation to the new grey belt policy.
25. The appellant has expressed dissatisfaction with the Council's handling of the application and refers to errors/incorrect assumptions and inconsistency in decision making. Caselaw has held that reasonable consistency is important in

planning decisions and I have explained above where I have reached different conclusions to those of the Council, including the differences between the appeal proposal and No 69.

### **Planning Balance**

26. The Council cannot demonstrate the requisite five years supply of deliverable housing land. The published housing land supply for the period 2021/22 to 2025/26 is 3.99 years. However a colleague Inspector in 2024<sup>2</sup> concluded that a supply of 2.4 years could be demonstrated. Moreover, as a result of the new Framework there may be a need for an increased housing land supply. Accordingly I consider the provisions of Paragraph 11(d) of the Framework come into play.
27. In view of my conclusion that the proposal does not amount to inappropriate development in the countryside the application of Policies in the Framework that protect areas or assets of particular importance do not provide a strong reason for refusing the development proposed. Accordingly Paragraph 11(d)(ii) applies.
28. The proposal would make efficient use of previously developed land. There would be economic benefits arising from construction employment and spend on building materials but these would be limited by the small scale of the proposal.
29. A dwelling has been demolished and the proposal would result in one dwelling being added. The net effect on the overall supply of housing would be neutral. Nor would there be an appreciable increase in spend in the local economy by way of increased numbers of residents. Good standards of energy efficiency are to be expected of all developments so this would also be neutral in the balance.
30. I have found that the proposed development would not amount to good design and would have a harmful effect on the character and appearance of the area. There would be conflict with Policies D3 and D4 of the London Plan; Policies 3 and 37 of the LP and the Chapter 12 of the Framework in this respect.
31. Good design is a key policy in the Framework. Taking all the above into account I conclude that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to key policies.

### **Conclusion**

32. In failing to comply with the above Policies the proposal cannot be said to comply with the development plan taken as a whole. I have found insufficient material considerations to indicate a decision other than in accordance with the development plan. I conclude the appeal should be dismissed.

*S Harley*

INSPECTOR

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<sup>2</sup> APP/G5180/W/24/3340223