
Appeal Decision

Site visit made on 16 June 2020

by O S Woodward BA(Hons.) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 August 2020

Appeal Ref: APP/W1525/W/20/3245635

Hawthorns, Wantz Road, Margaretting, Ingatestone CM4 0EP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr W Bruce against the decision of Chelmsford City Council.
 - The application Ref 19/01571/FUL, dated 12 September 2019, was refused by notice dated 11 November 2019.
 - The development proposed is the proposed siting of containers for mixed storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Chelmsford Local Plan Full Council Version was adopted in May 2020 (the LP). The Core Strategy and Development Control Policies DPD 2001-2021 Adopted 2008 was replaced on adoption of the LP. Emerging Policy CO1, as referenced on the decision notice, has been deleted as part of this adoption. Adopted Policies DM6 and S11 are the new policies relevant to the appeal case, and they are consistent with the National Planning Policy Framework (the Framework). I have reflected this in my decision.
3. Four containers are already present on site. The submitted drawings do not provide any details of the height of the proposed containers, or their appearance. The submitted photographs are of similar containers to those that are currently present on site, although they are not identical. Despite these omissions and conflicting evidence, it is clear that the appeal is for four 20 ft long containers of very similar scale to the containers that exist on site and the similarly sized containers detailed in the submitted photographs. This has provided me with sufficient information to enable determination of the appeal.

Main Issue

4. The main issue in this case is if the proposal would be inappropriate development in the Green Belt, and if so, 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 it.

Reasons

5. A 'building' is defined in The Town and Country Planning Act 1990 (as amended) as "any structure or erection". By this definition, the containers

would be 'buildings' and the proposal is for operational development. The containers would be substantial and weighty structures and it is clear by the fact that a planning application was made for a specific siting that they are intended to be permanent features. The proposed containers would therefore be new buildings in the Green Belt. The construction of new buildings should be regarded as inappropriate in the Green Belt other than in respect to a limited range of specified exceptions, as set out in Paragraphs 145 and 146 of the Framework.

6. Aerial photographic evidence has been provided of containers in a similar location to the proposed containers in many years between 2006 and 2018. The approved drawing associated with planning permission Ref 19/00963/FUL depicts four containers, albeit located to the opposite side of the site and without any detail on their height or appearance. The appellant acknowledges this has sometimes been the location of the container units. It therefore appears likely that containers, probably used for storage, have been on the site since at least 2006.
7. However, they have not always been in the same location as now applied for. The appearance of the containers also changes between photographs, suggesting that the type of container has changed, and there is no information on their dimensions. There is evidence that one of the containers has been a lorry container for at least some of the time. The containers do not benefit from planning permission or a certificate of lawfulness. Therefore, I am not persuaded that the proposal is for the replacement of a building in the same use as the one it replaces.
8. The Framework defines 'previously developed land' as land which is occupied by a permanent structure, including the curtilage of the developed land. The appeal site contains several large permanent buildings with a clear boundary to the curtilage formed by hedgerows and general site layout. The proposed location for the containers is on hard standing land clearly within this curtilage. On this basis, I am satisfied that the appeal site is 'previously developed land'. Therefore, the exception to inappropriate development relevant to the appeal proposal is the limited infilling or the partial or complete redevelopment of 'previously developed land', as long as the proposal does not have a greater impact on the openness of the Green Belt than the existing development.
9. Because of the likelihood that the previous provision of containers on the site was for a variety of different structures in at least two different locations, and without planning permission, I place limited weight on the previous provision of containers as a baseline position. The proposed containers would be fairly substantial structures and would result in an increase in built form on the site. They would not be particularly visible from the road or other surrounding sites or the countryside due to existing hedgerows and the screening of the other buildings on the site. However, the hedgerows would provide reduced screening in the winter months. Even in the summer, as I observed on site, the containers could be glimpsed from public views. The proposal would therefore have a greater impact on spatial and visual openness of the Green Belt. Consequently, this exception is not met.
10. The appellant has suggested that the proposal could be considered as the extension or alteration of a building. However, I am not persuaded that this is the case, because the containers would be individual structures, not directly

attached to any of the existing buildings. I acknowledge that the site is a commercial operation and that large vehicles may well use the site. However, the proposed containers would not lead to a reduction in the number of vehicles visiting the site. They may even lead to an increase in vehicles, in order to service the containers. This is not, therefore, a mitigating factor.

11. I have therefore found no reason why the appeal scheme would meet any of the exception criteria in either Paragraphs 145 or 146 of the Framework. Accordingly, the proposal would amount to inappropriate development in the Green Belt.

Other considerations

12. It is common ground between the appellant and the Council that all other factors are acceptable and that the proposal would not cause any non-Green Belt harm. I agree with this assessment, and this weighs neutrally in the planning balance.
13. The provision of storage facilities would provide some benefit for the commercial operation of the site. However, there are substantial buildings on the site that already provide storage capacity and this benefit is therefore limited. The appellant has highlighted that storage within the containers would have a lesser visual effect than storage within the open areas of the site. However, storage is not allowed within the open areas of the site, apart from two small areas depicted by certificate of lawfulness Ref 14/01978/CLEUD, and as controlled by condition 3 to planning permission Ref 19/00963/FUL. I therefore place limited weight on these factors.
14. The appellant has highlighted two example planning permissions in defence of the proposal. However, the Runwell Hall Farm example was in relation to agricultural uses and the Forge Cottage example was in relation to outdoor sport or outdoor recreation facilities, both of which have different definitions of inappropriate development to standard commercial uses. Therefore, neither planning permission provides precedent for the appeal proposal.
15. The proposal therefore fails to comply with the Framework, and also with the relevant parts of Policies S11 and DM6 of the LP which, amongst other things, resist inappropriate development in the Green Belt unless other considerations clearly outweigh any potential harm.

Planning Balance and Conclusion

16. Paragraph 144 of the Framework directs me to give the harm to the Green Belt by inappropriateness and loss of openness that I have identified substantial weight. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the 'very special circumstances' necessary to justify the development do not exist. Therefore, the appeal should be dismissed.

O S Woodward

INSPECTOR