



Appeal Decision

Site visit made on 26 January 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2021

Appeal Ref: APP/P1805/W/20/3256908

Wellington Yard, Land at Rear of 36 Middle Lane, Wythall, Birmingham B38 0DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Davies against the decision of Bromsgrove District Council.
 - The application Ref 20/00475/FUL, dated 17 April 2020, was refused by notice dated 22 June 2020.
 - The development proposed is described as “planning for 5 shipping containers for storage use and site access gate”.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - whether the proposals would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and development plan policy,
 - the effect of the proposal on the openness of the Green Belt and the character and appearance of the area, and
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

3. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Furthermore, the essential characteristics of Green Belts is their openness and permanence.
4. The proposal seeks to place five shipping containers on the site for use as a storage facility, and the retention of a new wall and pillars that would form a gated entrance into the site. The Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt, other than in a limited range of specified exceptions, as set out in Paragraphs 145

and 146 of the Framework. The proposed wall and pillars do not fall within any of the exceptions listed therein and are thus, inappropriate development within the Green Belt.

5. Turning to the proposed shipping containers, the appellant argues that as they would be placed upon the land without foundations or fixings, they should be classed as temporary structures. However, the proposal before me seeks planning permission for the shipping containers to be used as a self-storage facility for the public to rent out. Once the containers arrive on site, there is no intention for them to be moved and they are to be permanently placed upon the land and used for self-storage. It is clear that such containers require specialist equipment to be moved and although there is no need for specific foundations or fixings, the containers are substantial structures, affixed to the ground by means of their own weight. They could not be readily moved other than by the use of mechanical assistance. I therefore find that the proposed containers would have a degree of affixation and permanence sufficient to amount to a building operation. Consequently, I consider them to be regarded as a building within the definition provided in section 336 of the Act. Therefore, as they do not fall within the exceptions as listed within paragraphs 145 and 146 of the Framework, the shipping containers would also represent inappropriate development within the Green Belt.

Openness and Character and Appearance

6. Openness is not defined in national policy or the development plan, but case law establishes that it has both spatial and visual aspects. The appeal site for the shipping containers is an open area of land that is located adjacent to existing polytunnels and a profile metal clad barn style building. The permanent placing of the containers in an area where development does not exist would undoubtedly result in a loss of, and therefore fail to preserve, openness to the Green Belt in spatial terms. This is irrespective of the landscaping proposed as part of the scheme or whether one considers that the site is visible or not from the public realm.
7. With regard to the wall and pillars, they have already been constructed and I was able to view them in situ. They are quite large structures that are clearly visible from Middle Lane and surrounding properties and present a hard, enclosing effect to the front of the site, resulting in harm to the openness of the Green Belt. Moreover, from my observations, due to its design, bulk, and scale, I consider that the wall and pillars appear as stark, solid, and incongruous additions in comparison to the more verdant and open front boundaries within the street scene which include, on the whole, low fencing, walling and hedging. Furthermore, any additional planting to overcome my concerns would take a considerable time to become mature and cannot be relied upon to become permanent. Therefore, the development would have a detrimental impact on the character and appearance of the area.
8. Thus, when judged against national and local policy the proposals would be inappropriate development in the Green Belt which, according to the Framework is harmful by definition. They would conflict with Policy BDP4 of the Bromsgrove District Plan 2017 (BDP) and the Framework and would go against the fundamental aim of Green Belt policy to keep land permanently open. It would also be contrary to Policy BDP15 of the BDP where it, amongst other things, requires developments to preserve the openness of the Green Belt.

9. The wall and pillars would also result in harm to the character and appearance of the area. It would be in conflict with Policies BDP4 and BDP19 of the BDP and paragraph 127 of the Framework, which seek, amongst other things, to ensure that developments enhance the character and distinctiveness of an area.

Other Considerations

10. The appellant states that there are economic and employment generating benefits from the proposal, as well as the containers meeting a local need for self-storage facilities. Although I acknowledge these benefits, and even if I was to accept that there is a demand for self-storage, these would apply equally to other sites in the area where similar facilities could be provided. Although I accept that the appellant has undertaken a search of the area, the proposal is not therefore, unique to the appeal site. As such, I do not find the appellant's argument to amount to the very special circumstances required to clearly outweigh the harm to the Green Belt.
11. With regard to the wall and pillars, the appellant states that an electric gate is required for security purposes. However, I have not been presented with any substantive evidence that crime is a particular issue at the site or one that could not be controlled via other means.
12. The appellant also refers to elements of the scheme as being development permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, whether or not permission is required to erect the wall and pillars, or whether the placing of shipping containers on the land is permitted as part of the site that has a B8 (storage or distribution) use, is not a matter for me to consider as other mechanisms exist to resolve such matters.
13. The appellant refers to Wythall Park whereby the Council has granted planning permission¹ for the siting of five shipping containers at the site. However, from the report attached to the decision notice, it is clear that the containers are to be used to provide opportunities for outdoor sport and recreation, which is one of the exceptions to Green Belt development stated at paragraph 145 b) of the Framework. That is not the case before me.

Other Matters

14. I note that representations were made by local residents, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Green Belt Balance and Conclusion

15. In accordance with the Framework, I attach substantial weight to the harm to the Green Belt by reason of the inappropriate nature of the proposals and to the loss of openness of the Green Belt resulting from the developments. Against this, I do not find the appellant's arguments regarding the benefits of the development to amount to the very special circumstances required to outweigh the harm to the Green Belt.

¹ 20/00375/FUL dated 7 September 2020

16. The proposal therefore fails to comply with paragraphs 143 and 144 of the Framework. It fails to comply with the relevant parts of Policies BDP4 and BDP15 of the Local Plan which seeks to resist inappropriate development within the Green Belt and that which would not preserve the openness of the Green Belt. I therefore conclude that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist. Thus, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR