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# Appeal Decision

Site visit made on 8 March 2022

**by Stewart Glassar BSc (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31<sup>st</sup> March 2022**

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**Appeal Ref: APP/G5180/W/21/3275991**

**Stephen James BMW and MINI, Maidstone Road, Sidcup DA14 5BG**

- 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 Stephen James (Automotive) Limited against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/20/02965/FULL1, dated 25 July 2020, was refused by notice dated 15 April 2021.
  - Demolition of various existing buildings including BMW parts department building, valeting building and wash/vac building and construction of a replacement addition to the BMW service workshop. Demolition of the tower feature and minor alterations to the BMW showroom including a new customer entrance within integrated disabled provision. Minor elevation alterations to the MINI showroom
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. A revised Framework<sup>1</sup> was published by the Government between the determination of the planning application and the appeal coming before me. It does not raise any new considerations in relation to this appeal.

## Main Issues

3. The main issues are:
  - (a) whether the proposed development would be inappropriate development in the Green Belt;
  - (b) would harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

## Reasons

### *Whether Inappropriate Development*

4. Policy 49 of the Local Plan<sup>2</sup> concerns development in the Green Belt. It states that new buildings will constitute inappropriate development unless the building falls within a list of exceptions. The exceptions are broadly similar to those listed within Paragraph 149 of the Framework. The exception in Paragraph 149(g) includes the partial or complete redevelopment of previously developed

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<sup>1</sup> National Planning Policy Framework (2021)

<sup>2</sup> London Borough of Bromley Local Plan (2019)

land (PDL), whether redundant or in continuing use. The appellant considers the proposal to fall within this exception.

5. The second limb of Paragraph 149(g) contains an explicit requirement to consider whether the proposal would have a greater impact on the openness of the Green Belt than the existing development. This assessment is necessary in order to determine whether or not the proposal would be inappropriate development in the Green Belt.
6. The appellant points out that the scheme would not increase the overall volume or floor area of built form and that there would be only a 3% increase in footprint. However, assessing the nature and extent of any impact on Green Belt openness necessarily includes an assessment of the visual as well as spatial impacts.
7. The main element of the proposal is the replacement of the BMW parts building with an enlarged BMW service and repair workshop building that will also extend into an area which is currently hardstanding and a wash and vac facility. Despite the wash and vac part of the site being covered and partially enclosed to the rear and sides, it is visually less substantive than the main workshop and parts buildings. From Maidstone Road and from within parts of the site itself there is a clear physical and visual separation between the wash and vac facility and the existing buildings. This space would be lost as a result of the development.
8. The proposed extension would be a similar height to that of the BMW service and repair workshop building. It would be slightly higher in places than the existing parts building but noticeably taller and a more substantial built form than the existing wash and vac structures. Even though it is said by the appellant to square off and sit behind the main BMW building, the overall mass of built form that would result would be evident from within much of the site and from parts of Maidstone Road. As such, there would be a clear loss of openness to this part of the site.
9. The appellant points to other works which also form part of the proposal. It is said that when taken as a whole, the proposal would cumulatively not result in an overall loss of openness.
10. The removal of the lower part of the tower from the front of the BMW building and the associated alterations would simplify the building's appearance and rationalise the entrance. Only a small part of the tower projects above the roof of the building and much of that is glazed. Indeed, despite its dark glazing, views through the tower are possible which does give it an element of transparency. Overall, the removal of the tower will have some effect in reducing the prominence of the building visually when approaching the site from either direction along Maidstone Road and from within parts of the site. However, this would appear relatively minor in terms of openness when compared to the much more significant changes to the mass and bulk of the BMW building that I have already identified.
11. There are some works proposed to the MINI building. The new showroom windows and new vehicle access are relatively minor changes to the appearance of the building. A new customer entrance is proposed but this would be within the overhang of the existing roof. A covered, partially open storage area to the side of the building would be removed. It does not appear

- to be part of the original building and is partly concealed by another part of the building and a tyre storage area.
12. The removal of the MINI 'goalpost' signs would reduce the visual clutter to the front of that building. However, to all intents and purposes they provide a frame for the showroom's windows and although they are freestanding structures, in my opinion, they are not generally seen as being separate entities but rather viewed as part of the building given the limited separation distance between sign and building. Overall, these works to the MINI building and to the 'goalposts' would have a very limited effect either visually to the building or on the openness of the site more generally.
  13. The programming and valeting buildings to the rear of the MINI building would also be removed. These are single storey, lightweight structures which although visible from Maidstone Road are set well back into the site and partly obscured from view by parked cars. They do not have the same solidity as the main workshop/showroom buildings although their removal would have some benefits in terms of openness.
  14. However, whilst I cannot be sure, it seems reasonable to me that the area currently used by the programming and valeting buildings would not remain permanently empty. I saw on my site visit that space on site is at something of a premium, with cars having to be moved in order to access other cars. Although not permanent, vehicles associated with the existing use of the site may cause some loss of openness as a result of being parked where the current buildings are located. Accordingly, in my opinion, any improvement to openness resulting from the removal of the programming and valeting buildings should be tempered by the likely use of the land for parking cars.
  15. Overall, those elements which are to be removed from the site and the changes to the appearance of the buildings, would result visually in a small increase to the openness of the site. In contrast, the consolidation of built form through the extension to the BMW building, would noticeably increase the size and scale of the existing building. It would enclose an area of hardstanding and the smaller wash and vac facilities. The result would have a greater visual impact than that which is to be removed and would result in an overall loss of openness on the site.
  16. The site appears to be a long-established commercial operation and the works to the BMW building have been designed to integrate to the existing building's design. Despite this context, there would nevertheless be a greater impact on the openness of the Green Belt than the existing development. I consider this loss would be moderate, but it nevertheless weighs against the proposal. On this basis, the proposal would not meet the second limb of Paragraph 149(g) and so would not fall within this exception.
  17. I am aware that the Council considers the proposal does not fall within Paragraph 149(g), albeit they undertook such an assessment for the purposes of this appeal. The Council considers the proposal should be assessed under Paragraph 149(c). On this basis they concluded that it would represent disproportionate additions over and above the size of the original building and would be inappropriate development in the Green Belt. The appellant has not sought to advance an argument in favour of Paragraph 149(c) and so has not disagreed with the Council's conclusions in this regard. I have no substantive evidence before me to come to a different conclusion. Thus, even if I were to

disagree with the Council that the proposal did represent the partial or complete redevelopment of PDL, I would come to the same conclusion on whether the proposal was inappropriate development.

18. I find that the proposal would be inappropriate development in the Green Belt, contrary to Policy 49 of the Local Plan and the Framework which, amongst other things, seek to restrict inappropriate development in the Green Belt.
19. By definition, inappropriate development would be harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the Framework states that in considering a proposal substantial weight should be given to any harm to the Green Belt.

#### *Other Considerations*

20. The Framework does support decisions which help create the conditions in which businesses can invest, expand and adapt. It notes that significant weight should be placed on the need to support economic growth. However, the Council points out that there is nothing intrinsically unusual about a development providing economic development or creating employment, since many developments would have that effect. Thus, if repeated often enough, such proposals would cause cumulative harm to the Green Belt.
21. The appellant indicates that there would be a very real prospect of them losing the franchise, the site closing and employment and training opportunities being lost if the proposed changes cannot be undertaken. The appellant indicates that they have undertaken a search for alternative sites but have been unsuccessful. No details have been provided.
22. However, the appellant also acknowledges that the franchise could be awarded to an 'alternative seller'. This suggests to me that there may be other sites in the area which could fulfil the franchise requirements, but they are perhaps not available to the appellant. It would therefore follow that not all the jobs and training positions would necessarily be lost to the area if this particular building/site were not redeveloped as proposed. As a consequence, I cannot be certain that customers in the area would necessarily have to travel significantly further afield to deal with a franchised dealer.
23. I accept that this proposal would help address the shift away from petrol and diesel engines and towards electric vehicles. The proposal would therefore support the longer-term objectives of the Framework with regard to changing transport technology and the government's wider aspirations with regard to climate change. Whilst this underlying reason for the proposal is not something which could necessarily be repeated by all other existing employment sites in the Green Belt, they are nevertheless factors which are applicable in many development scenarios. Indeed, in this respect I am aware that this is one site belonging to one franchisee on behalf of one manufacturer.
24. The addition to the BMW workshop is said to help to better meet health and safety requirements of staff. Whilst such improvements would no doubt be of benefit to staff, the appellant is not suggesting that the current facilities are unsafe or do not meet current requirements.
25. The changes to the fronts of the buildings would appear to be in keeping with their prevailing design and appearance. They would also provide inclusive entrances which would have positive social benefits. However, these alterations

in themselves appear to be relatively self-contained and uncontroversial. In any event they would be a lack of harm as opposed to a tangible benefit.

26. Based on the evidence before me, the continuation of the business generally and its contribution towards the local economy and Framework objectives would attract significant weight. The impact on employees, the inclusive entrances and changes to the buildings' appearance are matters to which I can attribute only moderate weight in support of the overall scheme.
27. The appellant points out that there would be no material intensification of activity and thus no increase in staff numbers or noise as a result of the proposal. Site access, service delivery arrangements and traffic levels would remain unchanged. It is also noted that no trees would be lost and there would be no loss of privacy to neighbours. Furthermore, it is suggested that the proposal would accord with local policies which support improvements to undesignated employment sites. However, these factors would also represent a lack of harm in each case and accordingly would be neutral in any balance.

### **Conclusion**

28. The proposal would constitute inappropriate development in the Green Belt and would harm openness. As such, the Framework requires that the harm by reason of inappropriateness be given substantial weight and that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
29. The weight I give to the considerations cited in support of the proposal is significant. Whilst the circumstances cited in support of the proposal do not have to be unique, they must not just outweigh the harm to the Green Belt but clearly outweigh it in order to constitute very special circumstances. For the reasons given above, I find that the other considerations in this case do not, either individually or cumulatively, clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
30. The development is contrary to the Framework and to the development plan which seek to protect the Green Belt from inappropriate development. I have considered all other matters raised but none outweigh the conclusions I have reached.
31. For the reasons set out above, I dismiss the appeal.

*Stewart Glassar*

INSPECTOR