



Appeal Decision

Site visit made on 16 February 2023

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 MARCH 2023

Appeal Ref: APP/G5180/W/22/3305948

Land North of Dobbies Garden Centre, Oakley Road, Bromley BR2 8HD

- 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 Edgaras Mickevicius – E&V Export Ltd against the decision of London Borough of Bromley.
 - The application Ref DC/22/01103/FULL1, dated 23 March 2022, was refused by notice dated 23 May 2022.
 - The development proposed is 'portable cabin to stand on the site'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. At the time of my site visit the proposed cabin was already in situ and in use. Therefore, I have considered the proposal on the basis that planning permission is being sought retrospectively.

Main Issues

3. The main issues are:

- (i) whether or not the proposal is inappropriate development in the Green Belt including its effect on openness; and
- (ii) whether any 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 required to justify the proposal.

Reasons

Whether or not inappropriate development in the Green Belt

4. The Government attaches great importance to Green Belts. Paragraph 137 of the National Planning Policy Framework (the Framework) sets out the essential characteristics of Green Belts, which are their openness and permanence.
5. Policy G2 (London's Green Belt) of The London Plan (2021) confirms that the Green Belt should be protected from inappropriate development. New buildings within the Green Belt should be regarded as inappropriate development other than where they fall under any of the exceptions set out at paragraph 149 of the Framework. These exceptions include paragraph 149 g) limited infilling or the partial or complete redevelopment of previously developed land. Policy 49

(The Green Belt) of The London Borough of Bromley Local Plan (2019) (LP) sets out a similar exception.

6. The evidence before me indicates that the hardstanding is the extent of existing lawful development on the appeal site and that this previously formed part of the car park serving the neighbouring garden centre. I saw on my site visit that the site is now segregated from the garden centre and its associated fixed surface infrastructure by fencing. Therefore, I agree with the Council that it is questionable whether the hardstanding on the site constitutes previously developed land having regard to the relevant definition in the glossary to the Framework.
7. Even if the site is previously developed land, the relevant exceptions at paragraph 149 g) of the Framework and Policy 49 of the LP require that such development does not have a greater impact on the openness of the Green Belt than the existing development. It has been held in the High Court that openness is epitomised by the lack of buildings or development. Openness can have a spatial aspect as well as a visual aspect.
8. The volume of the cabin has a spatial impact over and above the hardstanding. During my site visit I was able to see that the cabin is discernible to passers-by on Oakley Road in glimpsed views through the vegetation on the neighbouring grass verge. Clearer views of the cabin are available from the garden centre car park and from the driveway serving Ravens Wood School. When the spatial and visual effects are taken together, the cabin undoubtedly has a greater impact on the openness of the Green Belt than the hard surfacing.
9. I conclude, the proposal is inappropriate development in the Green Belt and does not preserve openness. This conflicts with the aims of including land within the Green Belt when assessed against the Framework and the development plan.

Other Considerations

10. The cabin's white finish and decal advertisements, together with its position between the fencing within the site and the external boundary with Oakley Road, give it a utilitarian and cramped appearance. The appellant has indicated that they would be willing to consider altering the appearance of the cabin. However, given no specific proposals are before me, I only attach very limited weight to this possibility. Given my observations on the proposal before me, it conflicts with the high standard of design and layout requirements in Policy 37 (General Design of Development) of the LP.
11. I recognise the support for building a strong, competitive economy in the Framework, including that decisions should help create conditions in which businesses can invest, expand and adapt. I also accept that the use of the cabin by a second-hand clothes company may assist in minimising waste and pollution in the area. However, there is no objective evidence before me to suggest that these objectives can only be met through provision of a cabin in a Green Belt location.
12. There is nothing before me to suggest that the development has become lawful by virtue of the time it has been in situ, for example in terms of a lawful development certificate. I have therefore considered the appeal on the basis that planning permission is required.

13. I am not aware of the detailed planning history of the garden centre and any containers associated with it. Therefore, my assessment is based on the appeal site and the specific proposal before me and not a comparison with other unrelated development in the Green Belt.

Conclusion

14. The development constitutes inappropriate development in the Green Belt to which I attach substantial weight. In reaching this finding, I have also found that the proposal does not preserve the openness of the Green Belt. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances.
15. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This is a high hurdle for a development proposal to overcome.
16. I have also found that the proposal conflicts with the high standard of design and layout requirements of the LP. The other considerations put forward in favour of the proposal only carry very limited weight.
17. In conclusion and on balance, the substantial weight to be given to Green Belt harm, in addition to the other harm identified is not clearly outweighed by other considerations and therefore the very special circumstances needed to justify the proposed development do not exist.
18. For the reasons given the overall conclusion is therefore that the appeal should be dismissed.

M Russell

INSPECTOR