



Appeal Decision

Site visit made on 20 June 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 July 2023

Appeal Ref: APP/H2265/W/22/3291685

Offham Service Station, London Road, Addington, West Malling ME19 5AL

- 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 Sadat Pillana against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/21/02135/FL, dated 30 July 2021, was refused by notice dated 10 December 2021.
 - The development proposed is temporary change of use of land to hand car wash, and stationing of portacabin to act as staff welfare unit (3 years).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At time of my site visit, the hand car wash was operational.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effects of the proposal on the openness of the Green Belt;
 - The effects of the proposal on groundwater resources;
 - The effects of the proposal on the character and appearance of the area; and
 - 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 the proposal would be inappropriate development in the Green Belt

4. The appeal site comprises land to the side and rear of a petrol filling station located within the Green Belt. Car washing is carried out on an area of hard standing behind the filling station building. The car washing area is accessed from a private access road which also serves the filling station's forecourt and a workshop and dwelling to the rear. The proposed portacabin would be sited on a narrow verge comprised of a mix of grass and hardstanding between the

edge of the private access road and the boundary fence of an adjacent woodland. The Framework's definition of previously developed land includes land which is or was occupied by a permanent structure, including the curtilage of the developed land. As the appeal site includes land within the curtilage of the petrol filling station, it could meet the Framework's definition of previously developed land.

5. Policy CP3 of the Tonbridge and Malling Borough Council Local Development Framework Core Strategy 2007 (CS) establishes the extent of the Green Belt and sets out that national policy will be applied within it. The Framework indicates that other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate development in the Green Belt. Notably, paragraph 149(g) of the Framework allows for limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt than the existing development. Through the change of use and siting of the proposed portacabin, the proposal would involve the intensification of the use of the site and would constitute partial redevelopment of previously developed land.
6. Paragraph 137 of the Framework describes the essential characteristics of Green Belt being its openness and permanence and states the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. However, the siting of the portacabin, whilst of the minimum size necessary to meet its intended purpose, would contribute additional built volume on the site and would be clearly visible from London Road. The siting of the portacabin would therefore result in a harmful loss of Green Belt openness.
7. The proposal seeks permission for a period of three years only, controlled through a planning condition. Therefore, its effects on Green Belt openness would be of a temporary nature and upon the cessation of the use, the land would return to its present appearance.
8. Therefore, having regard to the lack of built development on the site and the overall size and scale of the development proposed, albeit temporary, the appeal scheme would have a greater impact on the openness of the Green Belt than the existing development, resulting in moderate harm to openness. It would therefore be inappropriate development which is, by definition, harmful to the Green Belt.

Groundwater quality

9. The Environment Agency (EA) advises that groundwater is particularly sensitive in this location as the appeal site is located upon a principal aquifer within a Source Protection Zone. The EA objects to the proposal due to the unacceptable risk the development poses to groundwater quality through the discharge of contaminants into the ground via the surface water soakaway.
10. The hand car wash has been operational for some time, and although the EA have not provided any evidence that harm has occurred as a result of the use, this does not mean that the development does not pose a risk to groundwater quality. The EA advises that their objection would be overcome if details on site drainage, pollution prevention measures and their associated maintenance schedule are supplied which demonstrate that the risks to controlled waters are

understood and addressed. However, details necessary to overcome the EA's objection have not been provided.

11. The appellant suggests that such details could be secured through a planning condition. However, it has not been demonstrated that the risks to groundwater quality can be appropriately mitigated and the extent of necessary works are not known. It is therefore unclear if the scheme would be made acceptable by the use of a planning condition.
12. The proposal fails to demonstrate that the development would not harm the quality of groundwater resources. The proposal therefore conflicts with CS Policy CP25 which requires appropriate mitigation to minimise or counteract any adverse impacts and avoid harm to natural resources. In addition, the proposal would not comply with paragraph 174 of the Framework, which seeks to prevent development from contributing to water pollution. Due to the sensitive nature of groundwater and its importance as a resource, I attach significant weight to this harm.

Character and appearance

13. The portacabin would be painted green to blend in with adjacent woodland vegetation but would appear prominent from the highway due to its siting close to the junction with London Road. However, the portacabin would be viewed in the context of the petrol filling station which has a tall canopy and a flat roofed shop unit, with features typical of a filling station forecourt, such as fuel and air pumps, retail display units, signage, and advertisements. Since the filling station has a generally functional appearance, the extent of the harm to character and appearance from the siting of the portacabin would be modest.
14. The proposal would conflict with CS Policies CP1 and CP24, which together require new development to be designed to create a high-quality environment, and Policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2010 which requires development proposals to reflect local character and distinctiveness. Due to the scale of the proposal's effects on the character and appearance of the area, and recognising the temporary nature of the proposal, I ascribe modest weight to this harm.

Other considerations

15. The proposed portacabin would provide a facility for the use of employees of the hand car wash business. The filling station and shop provide a valued service to the community, and many local residents expressed their support for the hand car wash business. The proposal therefore contributes to the viability of the filling station site and local economy. Since the benefits would be commensurate with the small-scale nature of the site and business operation, I attach modest weight.
16. The appellant suggests that a fallback position exists through the extension to the shop unit. No substantive details of proposed extension works have been provided. However, were I to accept such a fallback position, consolidating development into one part of the site could be beneficial in terms of the scheme's visual impacts, over and above the proposal which sites the portacabin away from existing buildings on the site. Such a fallback position therefore carries no weight in my decision.

Whether there would be Very Special Circumstances

17. Policy CP3 of the CS, by virtue of its link to national planning policy, requires that inappropriate development will not be permitted unless very special circumstances can be demonstrated. As set out above, the proposal would be inappropriate development in the Green Belt and would harm openness. This harm would exist for the period of the permission only. However, paragraphs 147 and 148 of the Framework require that substantial weight be given to any harm to the Green Belt and that inappropriate development should not be approved except in very special circumstances.
18. Paragraph 148 of the Framework indicates that very special circumstances will not exist unless the potential harm to the Green Belt, and any other harm resulting from the proposal, is clearly outweighed by other considerations. As set out above, the proposal would provide modest benefits to the local economy. Such other considerations do not clearly outweigh the impermanent but substantial harm to Green Belt openness, significant harm to groundwater resources, and modest harm to character and appearance.
19. Accordingly, the harm to the Green Belt is not clearly outweighed by the other considerations identified and therefore the very special circumstances necessary to justify the development do not exist. Thus, the proposal would fail to comply with CS Policy CP3, which requires the application of national Green Belt policy to the extent of the Green Belt.

Conclusion

20. For the reasons given above, having assessed the case against the development plan as a whole and having had regard to all other relevant material considerations, I conclude that the appeal should be dismissed.

E Dade

INSPECTOR