



Appeal Decision

Site visit made on 19 June 2024

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Appeal Ref: APP/H1515/W/23/3327292

Meadow View, Murthering Lane, Navestock, Romford, Essex RM4 1HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Sportsland Property Ltd against the decision of Brentwood Borough Council.
 - The application Ref 23/00007/FUL, dated 5 January 2023, was refused by notice dated 17 February 2023.
 - The application sought planning permission for Use of 4 x mobile homes during COVID 19 Pandemic (Retrospective) without complying with a condition attached to planning permission Ref 22/00035/FUL, dated 7 March 2022.
 - The condition in dispute is No 2 which states that: The mobile homes hereby approved shall not be occupied by any persons other than the following and their resident dependants: Jim Beirne until 10.01.2023. When the mobile homes cease to be occupied by those named above on the 10.01.2023 the use hereby permitted shall cease. Within 1 month of the cessation of the use of the mobile homes by those named above a scheme for the removal of the mobile homes and the restoration of the land (including a time table for restoration) shall be submitted to the local planning authority for approval and all mobile homes, buildings, other structures, materials and equipment brought on to the land in connection with the use, shall be removed. The land shall be restored in accordance with the approved scheme.
 - The reason given for the condition is to safeguard the openness of the Green Belt in accordance with the NPPF.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development on the permission this appeal seeks to vary, I have used the description of development from the original permission in my decision above.

Background and Main Issue

3. Planning permission was granted¹ for the siting of four mobile homes subject to a condition which limited occupation to the appellant and his resident dependents until 10 January 2022 and removal of the caravans within 1 month of the cessation of use. A new planning permission was granted via an application to vary a condition² which allowed occupation by the same residents

¹ 20/01784/FUL granted 2 July 2021

² 22/00035/FUL granted 7 March 2022

until 10 January 2023. The appellant sought to vary this condition to allow occupation for a further year and it is that decision which is the subject of this appeal.

4. The main issues are therefore whether the condition is reasonable and necessary having regard to:
 - whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land in the Green Belt; and
 - whether any harm by reason of inappropriateness would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether Inappropriate Development in the Green Belt

5. The appellant has not put forward any case that the development would be not inappropriate development in the Green Belt. This has not been disputed by the Council. Having regard to Brentwood Local Plan 2016-2033 (LP) Strategic Policy MG02 and the provisions contained within Section 13 of the National Planning Policy Framework (the Framework), I have no reason to find otherwise.

Openness and Purpose of the Green Belt

6. LP Strategic Policy MG02 confirms that the Green Belt will be preserved from inappropriate development so that, among other things, it continues to maintain its openness. This is consistent with paragraph 142 of the Framework which states 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. Openness is the absence of development and can have spatial as well as visual aspects.
7. The surrounding area appears as open, undeveloped countryside, with only sporadic development. It therefore does not have a residential character. The red line for the appeal site comprises a large area. At my site visit I observed a dwelling house, other outbuildings, mobile homes and a henge feature, all in reasonable proximity to each other along with the mobile homes the subject of this appeal. The site was otherwise open.
8. The mobile homes are sited adjacent to the boundary of the site with the M25. This is a discrete location within the wider site. The boundary to the motorway was very well screened, such that while traffic noise was clearly audible, there was no visual relationship to the motorway.
9. The presence of the mobile homes reduces the openness of the Green Belt both visually and spatially. This is further exacerbated by the hardstandings on which the caravans are sited and the associated domestic paraphernalia such as fencing and seating that were present at my site visit.

10. However, the mobile homes are limited in number, each modest structures being single storey and of a lightweight, temporary appearance. Consequently, I consider the harm to the openness of the Green Belt to be limited.
11. Paragraph 143 of the Framework sets out the five purposes of the Green Belt. Neither party has directly raised this, and I consider the mobile homes do not directly affect the purposes of the Green Belt. However, this would amount to a lack of harm and would therefore be neutral.
12. The siting of the mobile homes harms the openness of the Green Belt in that its openness is reduced by continuing the siting of them. In accordance with LP Strategic Policy MG02 and the advice at paragraph 153 of the Framework, I attach substantial weight to this harm.

Other Considerations

13. The mobile homes were originally sited to allow the appellant to isolate from a family member occupied in the frontline treatment of covid-19 in a hospital setting. In the time that has passed since the Council's decision was made, no additional restrictions on the public to limit the spread of covid-19 have been put in force. Furthermore, the Planning, Design and Access Statement submitted in support of the application confirmed that the proposed development would be temporary for the period of the covid-19 pandemic. While I appreciate that covid remains in circulation, there are no longer any restrictions in place for the general public. On that basis, it is reasonable to conclude that the infection no longer constitutes a pandemic.
14. I am also mindful of the advice in the Planning Practice Guidance (PPG) regarding temporary permissions³ which sets out that it will rarely be justifiable to grant a second temporary permission except in cases where changing circumstances provide a clear rationale. In this case, the circumstances no longer provide a clear rationale to allow a further temporary grant of permission.
15. Notwithstanding, the appellant has confirmed they are elderly and have underlying health conditions. I do not have specific detail on this, but this may leave them more vulnerable to illness. Section 149(1) of the Equality Act 2010 is that a public authority must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
16. I have had regard to the advice in the Ministerial Statement⁴ which sets out that personal circumstances are unlikely to clearly outweigh harm to the Green Belt so as to establish very special circumstances. I conclude that is the case in this appeal.
17. Given my findings, the other considerations advanced do not amount to very special circumstances which would outweigh the harm to the Green Belt by virtue of inappropriate development and loss of openness.

³ Use of planning conditions Paragraph: 014 Reference ID: 21a-014-20140306 Revision date: 06 03 2014

⁴ Statement UIN HCWS423 Green Belt protection and intentional unauthorised development made on 17 December 2015

Other Matters

18. There is the potential for my decision to affect persons with a protected characteristic. The negative impacts of dismissing this appeal would arise from the potential effects on the health of the appellant. However, having due regard to this, and to the principles set out in s149, in my view the adverse effects of dismissing the scheme on those with protected characteristics would be proportionate, having regard to the potential adverse effects of allowing the development on the Green Belt.

Conclusion

19. Having regard to all matters raised, I consider the condition is reasonable and necessary to prevent inappropriate development in the Green Belt and to safeguard its openness. The appeal proposal would undermine this and there are no very special circumstances which would justify the harm to the Green Belt. The proposal is therefore contrary to LP Strategic Policy MG02 and the provisions contained within Section 13 of the Framework. The appeal should therefore be dismissed.

J Downs

INSPECTOR