
Appeal Decision

Site visit made on 25 July 2024

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2024

Appeal Ref: APP/D5120/W/23/3334517

The Cottage, Lower Station Road, Crayford, Bexley DA1 3PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mrs Sheonalli Malhotra against the decision of the Council of the London Borough of Bexley.
 - The application reference 23/01421/FUL was approved on 18 August 2023 and planning permission was granted subject to conditions.
 - The development permitted is the use of the whole of the building and its curtilage as a children's nursery.
 - The condition in dispute is No 3 which states that: Notwithstanding the approved plans, the units identified as Central Kitchen, Temporary Storage Container and External Store for Nursery on drawing No D-01 Rev C (Received on 10/08/2023) shall be removed from site and any supporting parts cleared from site within 9 months of this decision. Evidence of compliance shall be submitted to and approved in writing by the Local Planning Authority.
 - The reason given for the condition is: To preserve the openness of the Green Belt in accordance with paragraph 150 of the NPPF (2021) and Policy SP8 of the Bexley Local Plan 2023.
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Decision

1. The appeal is allowed and planning permission reference 23/01421/FUL for the use of the whole of the building and its curtilage as a children's nursery at The Cottage, Lower Station Road, Crayford, Bexley DA1 3PY granted on 18 August 2023 by the Council of the London Borough of Bexley, is varied by deleting condition 3.

Main Issue

2. The main issue is whether the condition is reasonable and necessary having regard to:
 - whether the proposal constitutes inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2023 (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the openness of the Green Belt;
 - 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.

Whether inappropriate development

3. Section 13 of the Framework establishes the national policy objective to protect the Green Belt. Paragraphs 154 and 155 define different types of development that would not be inappropriate development in the Green Belt. It is uncontested by main parties that the containers would not comply with any such provisions. I see no reason, within the evidence, to disagree with this assertion. The containers would therefore be deemed to be inappropriate development in the Green Belt.
4. The Framework states that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It continues that very special circumstances will only exist if the harm to the Green Belt by its inappropriateness, and any other harm, is clearly outweighed by other considerations.

Openness

5. The appeal site is used as a daycare service for children and consists of a detached, two-storey property with an extensive parking area. It is somewhat disparate from the neighbouring residential area, being enclosed by a railway line, pumping station and tall conifer woodland. Within the land in close proximity to the southern boundary are the three metal containers the subject of this appeal.
6. The Framework sets out that the essential characteristics of Green Belts are their openness and their permanence. The Planning Practice Guidance (PPG) states that openness is capable of having both spatial and visual aspects.
7. The containers are relatively modest in size and height, and are consolidated into one area within the site. They are positioned on a large swathe of hardstanding in close proximity to paraphernalia associated with the planning unit – car parking, picnic tables, umbrellas, play areas and so on – and set against a backdrop of dense woodland and tall industrial fencing. Consequently, they result in no adverse visual impact upon the surrounding area.
8. In a spatial context, the containers would inevitably lead to a minor reduction in openness. However, at my site visit I considered that the elements are small in scale individually, and are not of substantial form even when seen as a group. Taken in the round, any loss of openness would be limited and consequently not significant in Green Belt terms.

Other considerations

9. Much of the appellant's justification for the removal of the condition relates to the lawfulness of the containers; it is not for me to determine this matter specifically. Still I note that the outbuildings have been installed and used as ancillary storage, kitchen and office units for a number of years, and to my mind appear as normalised features within the context of the site.
10. The Council's delegated report states that early years educational provision is a considerable benefit of the proposal, and weighs strongly in favour on the development; I agree with this assertion. It follows that ancillary facilities such as that present on-site would be needed to ensure efficient day-to-day operations. If the containers were removed then the space would need to be found elsewhere in the building to compensate. This would have the knock-

on effect of decreasing the amount of valuable nursery accommodation for which permission has been granted. To my mind this would be nonsensical, reducing many of the social and economic advantages gained by the approval of 23/01421/FUL.

Green Belt Balance

11. I am required by the Framework to give substantial weight to the harm the containers cause to the Green Belt by virtue of its inappropriateness. However, I consider that cumulatively the other considerations in this case, together with the absence of any detriment to openness, clearly outweigh this harm. Looking at the case as a whole, I am of the view that very special circumstances exist which justify the removal of the condition.

Conclusion

12. In light of the above, and mindful that I am not creating a new approval but rather that my decision is to be read in tandem with the decision notice dated 18 August 2023, I conclude that the appeal should be allowed, and planning permission reference 23/01421/FUL varied by the deletion of condition 3.

C Hall

INSPECTOR