



Appeal Decision

Site visit made on 29 July 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2024

Appeal Ref: APP/G5180/W/23/3331069

L A Sports Club, St Dunstan's Lane, Beckenham, Bromley BR3 3SS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Langley Annexe Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/22/02033/FULL1.
 - The development proposed is to convert an existing garage/store to create a café with canopy over external seating area for use only by the Sports Club when sports and recreational activities take place.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In a section 78 appeal, the right of appeal only applies to the person(s) who applied for permission. The planning application was submitted in the name of Langley Annexe Ltd, but the appeal form is completed in the name of L A Sports Club. The appellant has confirmed that Langley Annex Ltd is the company name and L A Sports Club is the name that Langley Annex Ltd have given to their sports club. I have therefore considered Langley Annex Ltd to be the appellant in this case.
3. It was apparent from my site visit that the development has been completed.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development on Metropolitan Open Land having regard to the National Planning Policy Framework and development plan policies, including the effect on openness,
 - the effect of the development on flood risk; and,
 - if the development is inappropriate, 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

Inappropriate development

5. The appeal site falls within Metropolitan Open Land (MOL). It is in use as a sports facility. It includes a large playing field, a pavilion building and a car park. The appeal relates to a café with external seating which was created through the conversion of a storage building.
6. Policy 50 of the Bromley Local Plan 2019 (the Local Plan) and Policy G3 of the London Plan 2021 (the London Plan) set out that MOL is afforded the same status and level of protection as Green Belt and should be protected from inappropriate development in accordance with national planning policy tests that apply to Green Belt, and permission will not be given for inappropriate development except in very special circumstances.
7. Paragraph 154 of the National Planning Policy Framework (the Framework) states that the construction of new buildings should be regarded as inappropriate in the Green Belt unless it falls within one of the listed exceptions. These exceptions include part b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and outdoor recreation as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it; part c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building; and part d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
8. The appellant asserts that the development meets these exceptions set out in the Framework. I have therefore considered each in turn.

b) The provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport and outdoor recreation
9. The proposal is used when sports and recreational activities take place at the appeal site. It provides a place for spectators to meet and socialise and provides refreshments. In the context of the overall use of the appeal site for outdoor sport and recreation, and the function of the café and seating area, the proposal could be considered to be an appropriate facility in the wording of part b) of paragraph 154 in connection with the existing use of the land for outdoor sport and recreation. However, in order to not be inappropriate development, the proposal also needs to preserve openness and not conflict with the purposes of including land within the Green Belt.
10. The proposal has resulted in an increase in built form occupying the site because of the width and depth of the canopy. The ground level materials have also been replaced and commercial paraphernalia has been added. In spatial terms, the proposal has therefore resulted in a loss of openness. However, the site was previously occupied by the garage and a shipping container which would have impacted the openness to a degree. The spatial impact of the proposal in this regard is limited as a consequence.
11. From a visual perspective, glimpses of the proposal from public views can be seen through the vegetation around the appeal site boundary. However, the visual impact is somewhat reduced as other buildings within the site can also

be seen, and the proposal is viewed within this backdrop. The visual impact on openness is therefore localised and limited.

12. Having regard to the location of the building and the position of surrounding development, the harm to the openness of the MOL is limited. However, this cannot be said to preserve the openness.
13. The appellant refers to development at a nearby sports club. However, limited details regarding this have been provided. Matters relating to openness are generally site-specific and require a degree of planning judgment, which is a matter for the decision-maker. In the absence of more substantive details, I cannot give this referenced development any weight.
14. The Framework sets out the five purposes for including land within the Green Belt. Insofar as these also relate to the MOL, the appeal site is not within the countryside and the proposal does not result in the sprawl of a large built up area, or result in neighbouring towns merging, nor does it relate to the setting and special character of a historic town or discourage the recycling of derelict and other urban land. It therefore does not conflict with these purposes.
15. Although the proposal does not conflict with the purposes of including land within the Green Belt, it does not preserve the openness of the MOL. The proposal does therefore not meet the exception listed at part b) of paragraph 154 of the Framework and is inappropriate development when assessed against this criterion.

c) The extension or alteration of a building

16. The Framework considers 'additions' and not solely floorspace. The canopy extends to a greater width and depth than the footprint of the garage. By reason of its design, the canopy has considerably increased the overall scale of the building. Whilst the internal floor area of the garage itself has not been enlarged, the amount of land covered by the development has increased greatly through the creation of the seating area.
17. The evidence before me demonstrates that the garage had a relatively modest form. Even though the sides of the canopy are open, it has added to the overall scale, bulk and mass of the garage resulting in a larger development that is out of proportion with the previous size of the garage. Consequently, the proposal amounts to a disproportionate addition over and above the size of the original building and does not meet the exception listed at part c) of paragraph 154 of the Framework. It is therefore inappropriate development when assessed against this criterion.

d) The replacement of a building

18. The proposal is for the conversion of the garage as opposed to a replacement of the building. The use of the building as a café is also different to the storage use that the garage was previously used as. The proposal does therefore not meet the exception listed at part d) of paragraph 154 of the Framework and is inappropriate development when assessed against this criterion.
19. For the above reasons, the proposal does not meet any of the inappropriate development exceptions set out in the Framework. Consequently, I conclude that the proposal is inappropriate development on MOL. The proposal conflicts

with Policy 50 of the Local Plan, Policy G3 of the London Plan and the Framework with respect to the protection of the MOL.

Flood risk

20. The appeal site is within Flood Zone 2. Policy 115 of the Local Plan requires that flood risk assessments should be submitted in support of all planning applications in flood risk areas. Paragraph 173 of the Framework sets out that where appropriate, applications should be supported by a site-specific flood risk assessment. Footnote 59 of the Framework clarifies that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. This makes no exceptions for sites that were already occupied by a building.
20. The development includes alterations to the previous building and a change in how it is used. The Planning Practice Guidance sets out what is meant by minor development in relation to flood risk and this does not include changes of use.
21. As the development is for a café and seating area, it is not used for outdoor sports or recreation, nor is it an essential facility for these uses. It would therefore not fall within the water-compatible development category.
22. No flood risk assessment has been provided. The appellant's contention, that the Council validated the application in the absence of a flood risk assessment cannot mitigate the failure to provide one, given the requirements of the development plan and the Framework.
23. I therefore conclude that it has not been demonstrated that the proposal has not increased the risk of flooding or is vulnerable to flooding. The level of harm is moderate because the appeal site is within Flood Zone 2. Nevertheless, this conflicts with Policy 115 of the Local Plan and Policy S1 12 of the London Plan. These policies amongst other things require development proposals to ensure that flood risk is minimised.

Other considerations

24. The Framework sets out that access to opportunities for sport and physical activity is important for the health and well-being of communities. The proposal is used by children's and adult sports groups and provides space for spectators to meet and socialise before and after games. Sports England raised no objections to the planning application and a substantial number of comments in support from the local community were received at the application stage. The proposal therefore generates benefits that support the local communities' health and social well-being. However, I give these benefits moderate weight as the evidence before me does not indicate that outdoor sports and recreation activities could not take place at the site without the proposal.
25. The appellant contends that the proposal is an integral part of the running of the sports club and generates income. However, I have not been provided with any substantive details such as projected turnover and how this optimises the available sporting facilities. There is also an existing clubhouse within the appeal site. The proposal seeks a permanent consent and would therefore remain in situ even after the clubhouse has been refurbished. There is insufficient evidence to understand why the proposal cannot be accommodated within the clubhouse once it has been refurbished. I therefore afford limited weight to this consideration.

Other Matters

26. The reason for refusal refers also to Policy 49 of the Local Plan which relates to the Green Belt. The MOL is afforded the same protection as the Green Belt in accordance with national planning policy, however, this local policy is not determinative in the context of this appeal as the appeal site is not within the Green Belt.
27. The reason for refusal refers to the impact on the character and appearance of this part of the MOL. However, Policy 50 of the Local Plan, Policy G3 of the London Plan and the Framework do not require an assessment on character and appearance grounds.

Green Belt balance

28. The development is inappropriate development on MOL and fails to preserve its openness. As required by the Framework, substantial weight must be given to this harm. The proposal also causes moderate harm to flood risk.
29. Inappropriate development is, by definition, harmful to MOL and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the MOL by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
30. The weight afforded to other considerations in support of the appeal does not, either individually or collectively, clearly outweigh the harm I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal conflicts with Policy 50 and Policy 115 of the Local Plan, Policy G3 and Policy S1 12 of the London Plan and the Framework.

Conclusion

31. For the reasons given above the appeal should be dismissed.

L Reid

INSPECTOR