



Appeal Decision

Site visit made on 29 August 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/G5180/W/24/3339402

Land north of Hockenden Lane, Cookham Road, Swanley BR8 7QH

- 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 Mr & Mrs Foord against the decision of the Council of the London Borough of Bromley.
 - The application Ref is 23/02246/FULL1.
 - The development proposed is Re-submission of an application to change the use of the yard and buildings to be used as storage for an agricultural contracting business.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The evidence states that the development has been undertaken. I am therefore considering the appeal retrospectively.

Main Issues

3. The appeal site is within the Green Belt so the main issues are:
 - Whether or not the development is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (2023) (the Framework) and any relevant development plan policies, including the effect on openness;
 - If the development is inappropriate development, is the harm by reason of inappropriateness, and any other harm, clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Site and appeal development

4. The appeal site is at the edge of a small cluster of residential properties located around the junction between Hockenden Lane and Cookham Road. The area is rural in character and the surrounding land predominantly comprises open fields.
5. At the time of my visit the site primarily consisted of open grassland. There was a timber clad caravan and some steel-clad storage buildings. There were various pieces of agricultural and non-agricultural paraphernalia randomly sited

across the site. There is a dense landscaping belt along the southern boundary of the site, with the site becoming more open to the north.

6. The appeal development involves the change of use of the yard and buildings to be used as storage for an agricultural contracting business. This includes the caravan which has been installed at the site.

Whether or not Inappropriate Development and Openness

7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework outlines that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions as set out in paragraph 154. The Framework also outlines, at paragraph 155 that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. Such forms of development include the material change of use of land. Policy 49 of the Bromley Local Plan (2019) reflects the exceptions as set out in the Framework.
8. Although the use of the land relates to an agricultural contracting business which supports agriculture, it is not an agricultural use itself. The Act¹ states that agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes. This is not the use subject to the appeal. The appeal development does not fall within the above definition and therefore does not constitute agriculture use for Green Belt purposes.
9. National planning policy affords stringent control of development within the Green Belt and the first stage in assessing a proposal is to determine whether or not it represents an 'inappropriate' form of development; in other words, one that does not fall within the list of exceptions identified at paragraphs 154 and 155 of the Framework. Any development falling outside those exceptions is 'inappropriate' and deemed harmful to the Green Belt by definition.
10. The appellants suggest that the appeal development falls under exceptions 154 d) and 155 e). It is also suggested that the development constitutes the redevelopment of previously developed land as outlined in 154 g).
11. Having regard to 154 d) there is limited evidence to confirm that the development constitutes the replacement of a building, which is in the same use and not materially larger than the one it replaces. Even so, the development also relates to the storage for an agricultural contracting business covering an area greater than solely the footprint of the buildings.
12. It would appear that having regard to the description of development, the exception outlined at 155 e) would be the most pertinent in the appeal. This exception is for the material change of use of land, provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

¹ s336 Town and Country Planning Act 1990

13. The Courts have held that rather than treating any change as having a greater impact on the openness of the Green Belt, the correct approach is to consider the impact or harm, if any, wrought by the change. Whether or not a change will have an adverse impact, and so cause harm to openness, might depend on factors such as the scale of the development, its locational context, and its spatial and/or visual implications. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual aspect.
14. The appeal site is mostly open grassland with some temporary buildings and landscaping. The unrestrained outdoor storage of equipment and machinery would have a cluttered and haphazard appearance which would be concentrated within the confines of the appeal site. Visually, this would cause moderate harm to the openness of the Green Belt, even if the existing landscaping offers a large element of screening.
15. The nature of the use comprising outdoor storage and other buildings is that equipment is likely to be present on the site for the majority of the time. Such a use, involving the outdoor storage and other buildings, would not preserve the openness of the Green Belt from a spatial perspective and cause moderate harm in this regard.
16. I acknowledge that the amount of storage and associated activity may fluctuate at times, however it is pertinent in this case that the appeal relates to the whole of the site identified in the submitted plans and I am mindful that allowing the appeal could result in the storage of equipment, machinery and other paraphernalia across the whole site area, even if this was not occurring at the time of my visit.
17. Even though the use involves the storage of agricultural equipment, it is not an agricultural use. The intensive assembled storage of machinery and other equipment, even if it is for agricultural use, would not be for use at the appeal site and would bring an essentially urban activity into this rural context. The development therefore also amounts to encroachment into the countryside. This is in conflict with one of the purposes of including land within the Green Belt set out at paragraph 143 of the Framework and would cause moderate harm.
18. The appellants have referred to greenhouses that were previously located on the site, including where the caravan has been positioned. From considering the evidence, it would appear that these comprised agricultural buildings and therefore would not harm the openness of the Green Belt as they would not constitute inappropriate development, unlike the appeal development.
19. The appellants put forward that the appeal site constitutes previously developed land. Such an exception is set out in 154 g). I observed on my site visit that the site accommodated a caravan, storage buildings, machinery and various other paraphernalia. Neither party is however able to confirm the lawful status of the site in terms of its use or the installations on it and therefore I am unable to give significant weight to the argument. There are however other mechanisms available to the appellants to put forward claims of lawful development or use of land. Furthermore, given that the Framework clearly outlines that previously developed land excludes temporary buildings and agricultural uses and buildings, I am not convinced that this exception applies in this case.

20. Even if I did consider 154 g) to be applicable, an exception under this paragraph is required not to have a greater impact on the openness of the Green Belt than the existing development, which I have found would not be the case here.
21. Therefore, the development causes harm to, and does not preserve, the openness of the Green Belt and conflicts with one of the purposes of including land within it. Accordingly, it amounts to inappropriate development in the Green Belt when considered against paragraph 152 of the Framework and is therefore by definition, harmful to the Green Belt.

Other considerations

22. The development delivers a form of economic development in a rural area. Although this is not quantified, I give it moderate weight in favour of the appeal.
23. I acknowledge the representations that have been submitted in support of the appeal. These show that the works and services provided by the appellants in the community are much valued and that the appellants are held in high regard. Given this role in the community, I give it moderate weight in favour of the appeal.
24. The appellants outline how the caravan provides a welfare facility for the business. Given that I have found that the use of the land as set out is not appropriate in the Green Belt, the argument relating to the requirement for such a facility falls away.
25. I have considered the personal circumstances as set out in accordance with the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act. Were the use to have been found not to be inappropriate development in the Green Belt, such factors would have held greater weight in favour of the appeal. It therefore does not follow from the PSED that the appeal should succeed.
26. I acknowledge that certain functions of the appeal site, such as the growing of fruit trees may not necessarily be inappropriate in the Green Belt. Such features are not, however, the sole nature of the development before me.
27. The appellants suggest that the development is not 'new development'. As I have outlined, should the appellants consider that the development does not require consent due to a lawful use of the land or otherwise, there are mechanisms available to establish whether or not this is the case. A material change of use of land is 'development' for the purposes of the Act² and the evidence, which suggests a previous agricultural use, is not convincing for me to give this significant weight in the appeal. I have also determined the appeal as set out before me.
28. The appellants refer to three traveller sites being granted planning permission in the last three years. I do not however have full details of these cases to give

² s55 Town and Country Planning Act 1990

them significant weight in the appeal. They are also for different developments and with different circumstances to the appeal development.

29. The appellants have referred to biodiversity enhancements that have been undertaken and are intended to be undertaken at the appeal site. Such enhancements undertaken at the appellants own volition are commendable. In terms of any future works, limited details have been provided and it is not clear how these would exceed the requirement that planning decisions should enhance the natural environment. I give them limited weight in favour of the appeal.
30. The appellants dedication to rural life and the rural environment is admirable and this is ardently conveyed in their evidence. Whilst it is a factor that weighs in favour of the appeal, it nevertheless has limited weight when considered against land use planning matters.

Other Matters

31. The appellants have referred to the Council's handling of the application and previous applications. These are not land use planning matters and do not change the outcome of the appeal.

Planning Balance

32. Paragraph 152 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 continues by stating that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
33. The development in this case amounts to inappropriate development in the Green Belt and the Framework requires that substantial weight is attached to the harm in that regard.
34. Having considered the matters raised in support of the appeal and the other considerations as outlined above, I conclude that they do not clearly outweigh the harm that I have identified, by reason of inappropriateness and harm to openness. Consequently, the very special circumstances necessary to justify the development do not exist.
35. Therefore, the appeal development is contrary to Policy 49 of the Bromley Local Plan (2019) and Policy G2 of the London Plan (2021) that seek to restrict inappropriate development in the Green Belt except in very special circumstances. The development is also contrary to the Framework.

Conclusion

36. The development therefore conflicts with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
37. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal be dismissed.

A M Nilsson

INSPECTOR