
Appeal Decision

Site visit made on 29 January 2025

by M Ollerenshaw BSc(Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 FEBRUARY 2025

Appeal Ref: APP/G5180/W/24/3347706

Highams Court, End Kennel Block (south east) and land adjacent, Layhams Road, Keston, Bromley, BR2 6AR

- 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 Tony Coyle against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/24/00755/FULL1.
 - The development proposed is change of use of land to B8 Storage and Distribution.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development has already been implemented on site. I have taken the description of development above from the application form, though I have removed the reference to “retrospective” as this is not an act of development.
3. The revised National Planning Policy Framework (the Framework) was published in December 2024. The main parties were given the opportunity to comment on the relevance of this to the appeal, and I have had regard to the comments received and the revised Framework in my decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to any relevant development plan policies and the Framework including the effect on openness; and,
 - if it is inappropriate, whether the 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 necessary to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site is an L-shaped parcel of land. The site is accessed via a private road to the west of Layhams Road and is within the Green Belt. Aside from Highview, a residential property, and Highams Court Kennels to the north, the wider

area includes agricultural land interspersed by various other uses, including playing fields, commercial yards, and traveller sites.

6. The proposal relates to the change of use of the land to storage and distribution (use class B8). Various items are currently stored on the existing hardstanding on the site, including storage containers, parked vehicles and materials.
7. Policy 49 of the Bromley Local Plan (2019) (the Local Plan) states that within the Green Belt permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. This is consistent with the approach set out in the Framework.
8. Paragraphs 154 and 155 of the Framework and Policy 49 of the Local Plan set out that development in the Green Belt is inappropriate unless one of the exceptions listed is applicable. The exception at paragraph 154 g) of the Framework is the limited infilling or the partial or complete redevelopment of previously developed land (including a material change of use to residential or mixed use including residential), whether redundant or in continuing use (excluding temporary buildings), which would not cause substantial harm to the openness of the Green Belt. A further exception at paragraph 154 h) v. relates to the material change in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds), provided it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
9. The appellant claims that the site comprises previously developed land as part of its previous use in association with the nearby dog kennels and has supplied some supporting information in this regard. However, in the previous enforcement appeal in 2020 against the unauthorised use of the site as a scaffolding yard¹, the Inspector considered that the site was largely undeveloped and found no evidence that it formed part of the curtilage of a developed site; and that even if the site did fall within the definition of previously developed land in association with the kennels, it should not be assumed that the whole of the curtilage should be developed.
10. I also note the appellant's reference to the boundary fence and hardstanding on the site being lawful. However, it is not the purpose of this appeal to determine the lawfulness of the use or operations on the site. There are other routes available to the appellant to resolve this matter, such as through a lawful development certificate. Even if I were to conclude that the site constitutes previously developed land, it would still be necessary to consider the effect of the proposal on the openness of the Green Belt.
11. Openness has a visual and spatial aspect. The Framework confirms that 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. I have had regard to the appeal decisions cited by the appellant relating to the assessment of openness.
12. During my site visit I could see that the boundary fence around the site has eroded openness. However, it is principally the storage use that has led to a significant loss of openness. Although the site is partially screened by the fencing and trees, some of the items project above the fencing and are thus visible from outside the site,

¹ Appeal ref. APP/G5180/C/3237092

including from Layhams Road. Even when considered in the context of existing development nearby, the proposal would result in substantial harm to the openness of the Green Belt in both visual and spatial terms given the large size of the site and the number and variety of items stored, in particular the storage containers and parked vehicles. Therefore, even if the site does comprise previously developed land, I find that the proposal would be inappropriate development.

13. Moreover, given that the site previously had an open character, the urbanising effect of the proposal represents a limited encroachment into the countryside, contrary to one of the purposes of the Green Belt.
14. I conclude that the proposal would conflict with Policy 49 of the Local Plan and Policy G2 of the London Plan (2021), which, among other things, seek to protect the Green Belt from inappropriate development.

Other considerations

15. Although I acknowledge that there is a Locally Significant Industrial Site nearby, there is no substantive evidence before me to demonstrate that there is an unmet need for the storage use in this particular location or that there are no potential alternative sites in less sensitive locations. Nevertheless, the proposal does support the local economy and employment. I therefore give this matter moderate weight in its favour.
16. The appellant has referred to developments to the east which have been granted planning permission, together with a 2003 appeal decision relating to the neighbouring dog kennels. However, the substantive details of these other developments, including their planning history, are not before me. That said, I was able to see that there are large-scale commercial uses and caravan sites nearby. The limited details before me and my observations of the site and the surrounding area lead me to conclude that the characteristics of these other developments are not comparable to the appeal proposal which I have assessed on its own merits in any case. I therefore afford little weight to this consideration.
17. The appellant suggests conditions to secure improved boundary treatment and access arrangements, but no details have been provided. In any case, they would not overcome the harm to the openness of the Green Belt. Nevertheless, they are potential environmental improvements to which I attach limited positive weight.
18. There is no strong coherence to the pattern of development in the immediate vicinity of the site, which instead is made up of intermittent development with fields to the south of the site and large gaps between existing development. Therefore, taking account of the dispersed pattern of development in the area and the spacious character of the site and its surroundings, the proposal cannot be characterised as limited infilling. The appellant claims that the site can be considered Grey Belt for the purposes of paragraph 155 of the Framework. However, there is insufficient evidence before me to demonstrate that there is an unmet need for the development in this location, even if I did find that the site was Grey Belt land. Therefore, these considerations do not weigh in favour of the proposal.

Planning Balance and Conclusion

19. The Framework is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

20. The proposal is inappropriate development in the Green Belt and is harmful to the openness of the Green Belt. This harm should be given substantial weight. I have considered the factors in favour of the proposal and have given some weight to these, as set out above. However, my overall conclusion is that the harm to the Green Belt would not be clearly outweighed by other considerations. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.
21. The proposal does not accord with the development plan or national policy in relation to Green Belt. Other considerations do not outweigh this finding. For these reasons I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR