
Appeal Decision

Site visit made on 24 April 2025

by **C Hall BSc MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 May 2025

Appeal Ref: APP/T2215/D/25/3359258

8 Northview Cottages, Clement Street, Swanley, Kent BR8 7PH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jamie Livermore against the decision of Dartford Borough Council.
 - The application ref. is DA/24/01133/FUL.
 - The development proposed is for the erection of a replacement outhouse, gazebo and black metal boundary fence and gates.
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Decision

1. The appeal is dismissed insofar as it relates to the erection of a replacement outhouse. The appeal is allowed insofar as it relates to the gazebo and black metal boundary fence and gates and planning permission is granted for the gazebo and black metal boundary fence and gates at 8 Northview Cottages, Clement Street, Swanley, Kent BR8 7PH in accordance with the terms of the application Ref. DA/24/01133/FUL, and the plans submitted with it; G19-04 (location plan), G19-05 (gazebo only), G19-06 Rev A (black metal boundary fence and gates only), subject to the following condition:

1) Unless within 3 months of the date of this decision a soft landscaping scheme is submitted in writing to the local planning authority for approval, and unless the approved details are implemented within 3 months of the local planning authority's approval, the black metal boundary fence and gates shall be removed.

The landscaping works shall be carried out in accordance with the approved details, and with the agreed implementation programme. The completed soft landscaping scheme shall be retained for the lifetime of the development. Any trees or shrubs which die, or are damaged, removed or seriously diseased shall be replaced by those of a similar size and species to those originally planted.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

2) The pedestrian and vehicular visibility splays shown on plan no. G19-06 Rev A shall be free of any obstruction exceeding 600mm in height and shall be retained as such thereafter.

Procedural matter

2. For the reasons that follow, I find the proposed gazebo and black metal boundary fence and gates to be acceptable as they are clearly severable both physically and functionally from the replacement outhouse that also forms part of the scheme. Therefore I intend to issue a split decision in this instance and grant planning permission for the gazebo and black metal boundary fence and gates.

Main Issues

3. The main issues are:

- whether the proposal constitutes inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2024 (the Framework) and any relevant development plan policies;
- the effect of the proposal on the openness of the Green Belt;
- the effect on the character and appearance of the surrounding area;
- highway safety; and
- 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

Whether inappropriate development

4. The appeal site is a two-storey, end-terrace dwelling with parking on a driveway to the side. It is located on Clement Street in a rural area comprising mainly of open fields and grazing land, with the M25 motorway being a short distance away to the south and east.
5. The Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. This is subject to certain exceptions, which include at paragraph 154 (d) “the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.” I consider this to be the relevant criterion in determining the outhouse; paragraph 154 (c) pertains to the extension or alteration of a building which is not proposed in this instance.
6. The Framework does not outline what constitutes “materially larger”, and therefore it is for the decision-maker to judge a proposal on its individual merits, taking into account the size of the previous building, the bulk, height, mass and prominence of the replacement and its impact on the openness of the Green Belt.
7. The Council calculates that the replacement outhouse has resulted in the floor area of the being increased by about 66.5% above and over the previous structure. The figure is not disputed by the appellants. Even allowing for the fact that one could measure volume or use other comparisons, I find it impossible to reach a view other than that the new building is materially larger than the one it replaces, and this would constitute a failure of paragraph 154 (d) of the Framework.
8. Paragraph 154 of the Framework sets out the limited purposes for which the construction of buildings will not be considered inappropriate. This does not include the construction of gates, walls and fences. Certain other forms of development are not inappropriate providing they preserve the openness of the Green Belt and do not conflict with the purposes of including land within Green Belt (paragraph 154 (h)). Again this does not include the construction of gates and fences.
9. For the above reasons, I conclude the new outhouse and black metal boundary fence and gates would be inappropriate development in the Green Belt, contrary to Policy M12 of the Dartford Local Plan to 2037 (LP) and paragraph 154 of the Framework.

Openness

10. The essential characteristics of Green Belts are their openness and their permanence,

which can be perceived spatially and visually. The scale and extent of the outhouse would be substantially greater than the previous shed, involving extra massing and increased height and bulk at roof level. The proposal would be seen from open land surrounding the site and from public viewpoints, notwithstanding the presence of some existing planting around part of the site. The element results in built form where previously there was none, causing moderate harm to the openness of the Green Belt in both visual and spatial terms. The Framework makes clear that substantial weight should be given to any harm to the Green Belt and the erosion of openness therefore weighs heavily against the outhouse.

11. The new gates and fences would provide a quantum of built development that did not historically exist on site, and would be clearly visible from public views along Clement Street. However, given the low-level height and see-through nature of the railings, the elements would only have a limited impact. The site itself occupies a residential curtilage, surrounded by other boundary treatments along the highway, and therefore the treatment assimilates within this context. As such, I conclude that the gates and fences would have only a minimal effect on the openness of the Green Belt.

Character and appearance

12. The photos on the plans show that the previous outbuilding on the site was diminutive in scale, hunkered down into the land. Conversely, the replacement scheme is of more substantial size; the height and overall extent is more evident from the public highway making it appear overly dominant when compared with the host property, competing with its scale and appearing less subservient in nature.
13. The gates and fences would be evident from the road and appear as a conspicuous visual addition within the setting. This notwithstanding, I have had regard to the limited height and lightweight nature, together with other boundary treatments on the front borders of residential curtilages in the area, many of which are set against hedgerows and vegetation to mitigate their appearance. In this context and subject to a landscaping scheme to soften the railings, I find that the gates and fencing are not so detrimental as to warrant a refusal of planning permission in this instance.
14. On this basis I am drawn to conclude that whilst the gates and fencing are acceptable, the outhouse would result in harm to the character and appearance of the surrounding area. It would be inconsistent with Policies M1 and M10 of the LP, which expect new development to be of a design that reflects and respects the existing character, setting and local context.

Highway safety

15. The Council states that appropriate visibility splays and sight lines would not be achieved at the site's entrance. I acknowledge that a vehicle emerging from a driveway, with the driver having restricted views of other road users, is an obvious safety hazard and should be avoided.
16. However, I observed at my visit that the frontage allows for unimpeded views along the carriageway in both directions for an appropriate distance; and moreover the prospect of vehicular movements in association with the dwelling would be little different to the current accesses to other properties locally. Given the railings to the gates would allow for views of the driveway, the infrequency and short duration of manoeuvres, and the low speeds involved, I find that the safety of highway users would not be unduly compromised in this particular instance.
17. Furthermore, there is no evidence that any incidents involving vehicles and pedestrians have been recently reported in the locality. I am also satisfied that there is adequate space on the driveway to allow for entry and exit in a forward gear, and that the use of an electronic fob would ensure that the gates can be opened remotely such that vehicles do not have to wait on Clement Street to access the site.

18. I find that the scheme would not result in adverse impacts upon highway safety. It would meet Policies M1, M15 and M16 of the LP as far as they pertain to minimising road danger and ensuring that safety is not compromised.

Other considerations

19. With regard to the outhouse, I appreciate that the site comprises an end of terrace dwelling located within a relatively spacious plot, and it would be functionally related to the main house. The Council does not object to the gazebo and I have no reason to disagree. However, such matters do not outweigh the harm that I have identified above.
20. The gates and fencing only cause a minimal impact upon openness. Taken together with the absence of any character and appearance issues (subject to the the imposition of a landscaping condition to soften their presence) and highway safety concerns, I am satisfied that other considerations do clearly outweigh the harm that arises.

Green Belt Balance

21. According to paragraphs 153 of the Framework, inappropriate development in the Green Belt should not be approved except in very special circumstances. These will not exist unless the harm to the Green Belt, and any other harm resulting from the proposal, are clearly outweighed by other considerations.
22. I am required by the Framework to give substantial weight to the harm the development would cause to the Green Belt by virtue of its inappropriateness and to openness. Individually or cumulatively, the weights I have attached to other considerations do not clearly outweigh this harm. As such, the very special circumstances necessary to justify the outhouse do not exist.
23. The gates and fencing would be inappropriate development, however as I have outlined above other matters exist to outweigh the harm. I find that they would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a decision other than in accordance with this.

Conditions

24. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. As the gazebo, gates and fencing have already been implemented, it is not necessary or possible to impose the standard plans condition, although I have listed the application plans relating to the gazebo, gates and fencing in my decision so it is clear what was submitted.
25. A condition requiring the submission of a landscaping scheme is necessary to ensure that the black metal boundary fence and gates integrate with the site and surrounding area. Visibility splays should be provided in the interests of highway safety.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to the gazebo and black metal boundary fence and gates, but dismissed insofar as it relates to the replacement outhouse.

C Hall

INSPECTOR