



Appeal Decision

Site visit made on 15 July 2025

by **H Whitfield BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13th August 2025

Appeal Ref: APP/G5180/W/25/3361299

Land West of Cudham Lane North, Cudham, Sevenoaks, Bromley TN14 7QL

- 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 Bond against the decision of the Council of the London Borough of Bromley.
 - The application Ref is DC/24/02080/FULL1.
 - The development proposed is the redevelopment of site to provide 2 self build single storey dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing outbuildings and erection of 2 detached single storey 2 bedroom dwellings and cladding of retained containers in southern part of site at Land West of Cudham Lane North, Cudham, Sevenoaks, Bromley TN14 7QL in accordance with the terms of the application, Ref DC/24/02080/FULL1, subject to the conditions in the attached schedule.

Preliminary Matters

2. The address in the banner heading is taken from the application form. However, I have amended the description in my formal decision to reflect the description used on the decision notice and by the appellant on their appeal form, as this more accurately describes the development.
3. The Proposed Site Plan refers to one of the dwellings as an annexe. However, the descriptions on the application and appeal forms seek permission for two dwellings, and I have determined the appeal on this basis.
4. The appellant has submitted an additional plan with the appeal which shows the floor, elevation and roof plans for the containers to be retained in the front corner of the site, as these were omitted from their application in error. The proposed site plan that the Council based its decision on clearly shows the location of the containers and the intention to install timber cladding and PV panels to them. Therefore, I do not consider the additional plan makes a substantial difference or fundamental change to the development when compared to the plans upon which the Council made its decision. The Council has also had the opportunity to review and comment on this evidence such that it would not cause unlawful procedural unfairness to anyone involved in the appeal. I have therefore considered this additional plan in the determination of the appeal.
5. The appeal is accompanied by a unilateral undertaking (the UU) pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended). The UU seeks to secure the two plots as self-build dwellings, so as to fall within the definition of a self-build home as set out in the Self-build and Custom Housebuilding Act 2015 (as

amended) and ensure the dwellings are built and occupied in accordance with what is proposed. As the UU is completed, I have taken it into account in my consideration of the appeal and shall return to this matter later in the decision.

6. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties had the opportunity to comment on the implications as part of this appeal.

Main Issues

7. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to relevant development plan policies, the provisions of the Framework and the effect on the openness of the Green Belt;
 - The effect on the character and appearance of the area; and
 - If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the development.

Reasons

Whether inappropriate development

8. The appeal site relates to a parcel of land to the west of Cudham Lane North within the Green Belt. The site comprises existing buildings, several shipping containers, and an area of hardstanding. At the time of my site visit, I also observed some external storage on the land.
9. The Framework states 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. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Certain forms of development are, however, not inappropriate. One such exception listed 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.
10. The Council's assessment and that of a previous Inspector in recent appeals¹ at the site, were made against the previous version of the Framework and Policy 49 of the London Borough of Bromley Local Plan (2019) (the BLP). This policy contains similar exceptions to inappropriate development in the Green Belt; however, its wording is rooted in the previous version of the Framework. One listed exception is the limited infilling or the partial or complete redevelopment of previously developed sites, whether redundant or in continuing use (excluding temporary buildings), provided that the development would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

¹ APP/G5180/W/23/3315478 & APP/G5180/W/23/3315511

11. The specific criterion which allows for the redevelopment of previously developed land in Policy 49 of the BLP is therefore not entirely consistent with paragraph 154(g) as it imposes more stringent tests for the re-development of previously developed land. The requirements of Policy 49 are therefore inconsistent with the Framework in this regard. As such, I have afforded limited weight to this policy and assessed the proposal principally against the most up to date policy and wording of the Framework.
12. The site contains an existing building, structures and hardstanding and the Council states that the appeal site has the benefit of a Certificate of Lawfulness² for an existing commercial use. There is no dispute between the main parties that the site comprises previously developed land, in accordance with the definition in the Framework, and I see no reason to come to a different conclusion on this matter. It therefore falls to consider whether the appeal scheme would result in substantial harm to the openness of the Green Belt.
13. The Planning Practice Guidance (PPG) provides advice on the factors that can be taken into account when considering the potential impact of development on the openness of the Green Belt, with openness being capable of having both spatial and visual aspects.
14. The appeal scheme proposes the construction of two single storey dwellings and the cladding of some shipping containers that would be retained in one corner of the site. The remainder of the existing structures and external storage on the land would be removed. The L-shaped dwelling would be positioned slightly closer towards the road than the existing building on site and both dwellings would result in built form on parts of the site that are currently devoid of structures. However, the proposal would result in the reduction in overall built footprint, volume and the extent of hardstanding covering the site and the overall consolidation of built development, resulting in a greater proportion of the site being free from development.
15. The height of the dwellings would exceed the height of the existing low-lying structures, and this would have some effect on openness. However, they have been designed as single storey buildings to be faced in timber cladding with low eaves and massing. Thus, they would not be significantly visually prominent in the surrounding area, irrespective of their positioning closer towards the highway, particularly given the screening that is afforded from some aspects by boundary vegetation, intervening landscape features and surrounding topography.
16. There would likely be domestic paraphernalia associated with the use of the dwellings across the site too, including parked vehicles, bin storage and boundary treatments and this would have an effect on the openness of the site beyond the footprints of the dwellings. However, there is fairly limited visibility of the site from the surrounding area and when compared against the existing site context, the spatial and visual effects would not be significantly harmful to the openness of the Green Belt.
17. The retention of some of the storage containers would also allow for the appellant to continue their business operations from the site. This would have associated comings and goings in addition to those in connection with the new dwellings. However, the extent of the retained commercial use would be relatively small-scale and self-limiting, given the area of the site covered by the containers would be comparatively small and confined to the front of one of the dwellings. This would limit the amount of circulation

² For the sale of firewood/coal and associated products and buying, selling, repair and maintenance of agricultural, horticultural and garden machinery (Council Ref. 18/00427/ELUD)

space within the site, meaning that the extent of commercial activity would be on a much smaller scale than existing. Therefore, it is unlikely that the level of activity in combination with the two dwellings would be such as to amount to a significant effect on openness. Moreover, as the scheme would allow the appellant to live and work on the same site, some of the existing trips currently made to the site would be offset too.

18. Therefore, when the spatial and visual effects of the development are taken together, I find that there would be a moderate effect on the openness of the Green Belt which would not amount to substantial harm. I therefore find that the proposal would fall within the exception set out under paragraph 154(g) of the Framework. Accordingly, the proposal would not comprise inappropriate development in the Green Belt. Insofar as they are consistent with the Framework, I also find no conflict with Policy 49 of the BLP or Policy G2 of the London Plan (2021) (the LP), which collectively seek, amongst other things, to protect the Green Belt from inappropriate development.
19. As I have concluded that the proposal would not amount to inappropriate development in the Green Belt, I do not need to consider other considerations and whether these amount to very special circumstances. Nor do I need to consider the case under the Grey Belt exception of the Framework as put to me by the Council, given I have found the proposal would comply with the exception as described above. I also note the conclusions of the previous Inspector on the site in relation to a similar scheme, however, as the national policy approach to development in the Green Belt has changed, it is not directly comparable to the appeal before me.

Character and appearance

20. As set out above, the site contains low-profile buildings, storage containers and external storage. The site is located on a stretch of Cudham Lane North where nearby development comprises a variety of dwelling sizes, styles and materials set in undulating, mainly open countryside. Due to the sporadic nature of development in the immediate vicinity there is no prevailing building line or pattern of development. Albeit residential properties tend to be positioned back from the road behind hedges and trees which provides a spacious and verdant character and appearance.
21. The dwellings would be modest in scale, faced in materials that would give a relatively natural appearance, set back from the established front boundary with the highway and relatively well screened from public vantage points as set out above. This would accord with the surrounding pattern of development. The dwellings would have an increased height when compared to the existing structures on site, however, there would be an overall reduction and consolidation of development across the site. Thus, the proposal would not result in an urbanising effect on this rural area or the overdevelopment of the site.
22. Consequently, whilst the proposal would change the site's current appearance, this would not result in material harm to the character and appearance of the area. The proposal therefore accords with Policies 4 and 37 of the BLP, as cited in the Officer Report, insofar as they support development that is of a high standard of design, is responsive to local character, physical context and compatible with the surrounding area.
23. Whilst the reason for refusal finds conflict with Policy 49 of the BLP and Policy G2 of the LP, they are not determinative in my consideration of this main issue given they relate to the policy approach to development exceptions in the Green Belt rather than matters relating to character and appearance.

Other Matters

24. Interested parties have raised concerns relating to, amongst other matters, the effect of the development on highway safety and the suitability of the access. There is no substantive evidence to indicate that the access is unsuitable for vehicles or that the proposed development would adversely affect highway safety. Moreover, I note that the highway authority has raised no objection to the development, and I see no reason to come to a different conclusion on this matter.
25. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However, no directly comparable sites to which this might apply have been put to me. Each application and appeal must be determined on its individual merits, and a generalised concern of this nature does not justify withholding permission in this case.
26. Additional concerns raised relate to the potential ecological impact of developing the site. However, there is no substantive evidence to suggest that the development would result in harm to protected species or their habitats, including ecologically designated sites such as Ancient Woodlands or Sites of Importance for Nature Conservation. Interested parties have also raised concerns relating to alleged enforcement history on the land and the lawful use of the site. However, I have determined this appeal based on the evidence before me and on its own merits.

The Unilateral Undertaking

27. Self-build and custom housebuilding is exempt from mandatory Biodiversity Net Gain (BNG). The appellant has submitted a UU to secure the two plots as self-build dwellings, so as to fall within the definition of a self-build home as set out in the Self-build and Custom Housebuilding Act 2015 (as amended) and to ensure the dwellings are built and occupied in accordance with what is proposed.
28. The UU requires the intended occupants to ensure the dwellings are constructed and completed as self-build dwellings; that first occupation is by the intended occupants who have had primary input into the design and layout and who intend to live in the properties for at least 3 years from the date of practical completion as their sole or principal residence; and to notify the council of the intended occupants who will take up first occupation. The proposed dwellings are fully detailed and have been designed to meet the needs of the intended occupants. On the basis that the intended occupants have had primary input into the design and layout of the properties, they would qualify as self-build housing, provided the intended occupants reside in the properties for 3 years. Consequently, the development would be exempt from BNG requirements and would contribute towards the Council's self-build and custom housebuilding requirements.
29. Although the Council have raised concerns regarding the enforceability of clauses within the UU, I am satisfied that it will achieve the desired objective of securing the properties as self-build for the purposes of the BNG exemption. I am also satisfied that the undertakings secured through the UU are reasonable and necessary to make the development acceptable. They are directly related to the development and are fairly and reasonably related in scale and kind to it. The UU therefore complies with the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and paragraph 58 of the Framework.

Conditions

30. The Council has suggested several conditions which I have considered in light of the advice in the Framework and PPG. Where appropriate, I have adjusted the wording of the conditions in the interests of precision and enforceability.
31. In addition to the standard three-year time limit condition for implementation, it is necessary to specify the approved plans in the interests of certainty. Conditions requiring compliance with the stated materials, submission of bin storage details and the submission and implementation of a hard and soft landscaping scheme are also necessary in the interest of the character and appearance of the area and appropriate household waste management.
32. Conditions are also imposed requiring the laying out of the vehicle parking and turning area and submission of details for secure bicycle storage to ensure adequate on-site vehicle and cycle parking in the interest of highway safety. I have also imposed a condition relating to submission of a construction method statement in the interest of highway safety, however, I have combined the requirement for wheel wash facilities as suggested by the Council into this condition to avoid duplication. It is necessary for this condition to be pre-commencement to ensure appropriate construction management measures are put in place before works commence.
33. Due to the nature of the existing use of the site a condition in relation to contamination and remediation is also imposed in the interest of the health and safety of future occupants. It is necessary for this condition to be pre-commencement to ensure that any contamination is identified prior to demolition or groundworks commencing, to minimise the potential disturbance of contamination and in the interests of the health and safety of construction workers and future occupants.
34. A condition to secure the biodiversity mitigation and enhancement measures detailed in the accompanying survey is also imposed in the interests of protecting and enhancing biodiversity. So too is a condition relating to the submission of an external lighting scheme prior to installation in the interest of protecting habitats and local ecology. However, I have amended the council's suggested wording to require this prior to installation in the event that external lighting is not proposed. A drainage condition is also imposed to ensure the site is adequately drained.
35. The Council has suggested conditions to remove permitted development rights under Classes A, AA, B and E of Part 1 of Schedule 2 of the GPDO. The Framework advises that conditions should not be used to restrict permitted development rights unless there is clear justification to do so. I have not been presented with any compelling evidence that the site circumstances are such to justify the removal of these permitted development rights or that harm would arise to the character and appearance of the area or openness of the Green Belt in the absence of these conditions. As such, these conditions are not imposed.
36. The Council has also suggested a condition relating to the removal of all structures and external storage on the site and the use of the retained containers for purposes incidental to the enjoyment of the dwellings only. However, as I have found the retention of these containers and their continued commercial use to be acceptable, I have amended the wording of this condition so that it relates to the uses authorised by the aforementioned Lawful Development Certificate.

37. The Council has also suggested a condition to secure the dwellings as self-build plots for the purposes of meeting the BNG exemption. However, it has not been demonstrated how such a condition would pass the tests set out in the Framework. Therefore, as set out above, the appellant has submitted a UU to secure the dwellings as self-build dwellings and as such, I have not imposed this suggested condition.

Conclusion

38. For the reasons given above, I conclude that the appeal should be allowed.

H Whitfield

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - Location Plan ref. TQRQM21340143853906 dated 06 December 2021
 - Proposed Site Plan ref. 01 Rev. K
 - Proposed Dwelling Elevations ref. 04 Rev. G
 - Proposed Dwelling Coloured Elevations ref. 04a Rev. C
 - Proposed Dwelling Ground Floor Plan ref. 02 F
 - Proposed Dwelling Floor Plans, Roof Plan & Elevations ref. X01 Rev. L
 - Proposed Dwelling Coloured Floor & Roof Plans Ref. 02a Rev. C
 - Proposed Annexe Floor Plans & Elevations ref. X02 Rev. E
 - Proposed Annexe Floor Plan, Roof Plan & Elevations ref. 04d Rev. A
 - Proposed Annexe Elevations ref. ANX 04 Rev. A
 - Proposed Annexe Floor Plan ref. ANX 02
 - Proposed Site Elevations ref. S02 Rev. G
 - Containers Floor, Roof Plans & Elevations ref. EX01-C
- 3) The external surfaces of the development hereby permitted shall be constructed in accordance with the materials detailed on the application form and as specified on drawing no EX01-C.
- 4) No development shall take place, including any works of demolition, until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

- i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and

- ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development; and
 - iv) wheel washing facilities;

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development above ground level shall commence until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority.

The submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii) include a timetable for its implementation; and,
- iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 7) No development above ground level shall commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- i) details of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development;
 - ii) a schedule detailing the location, sizes and numbers of all proposed trees/plants to be planted;
 - iii) hard surfacing materials; and
 - iv) boundary treatments.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size

- and species. All hard landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
- 8) The development hereby permitted shall not be occupied until the vehicle parking and turning area has been provided in accordance with drawing 'Proposed Site Plan' ref. 01 rev. K. Thereafter those spaces shall be retained for the parking and turning of vehicles only.
 - 9) The development hereby permitted shall not be occupied until a scheme for secure bicycle storage has been submitted to and approved in writing by the local planning authority. The scheme shall thereafter be carried out as approved prior to first occupation and kept available for the storage of bicycles for the lifetime of the development.
 - 10) The development hereby permitted shall not be occupied until a scheme for the storage, management and collection of refuse and recyclable materials, including details of any associated structure or means of enclosure has been submitted to and approved in writing by the local planning authority. The scheme shall thereafter be carried out as approved prior to first occupation and kept available for the storage of refuse and recyclable materials for the lifetime of the development.
 - 11) Prior to the installation of external lighting, full details including height, design, location, intensity and shall be submitted to and approved in writing by the local planning authority. The lighting installation shall thereafter be carried out in accordance with the approved details.
 - 12) The development hereby permitted shall be carried out in accordance with the recommendations outlined in Section 5.0 of the Ecological Impact Assessment & Biodiversity Net Gain report (by Kent Sussex Ecology, version 1.0, dated March 2024), including the ecological mitigation and enhancement measures which shall be implemented in full prior to first occupation of the development hereby permitted.
 - 13) The development hereby permitted shall not be occupied until all machinery, equipment, materials and containers on the site (apart from those shown to be retained on drawing 'Proposed Site Plan' ref. 01 rev. K) have been removed from the site. The use of the retained containers shall be limited to those uses confirmed by Application 18/00427/ELUD and shall not be used in connection with any other commercial use.

**** END OF SCHEDULE ****