

APPEAL STATEMENT

LB Hillingdon - Application ref: 70717/APP/2019/1188

Land opposite 176-184 FORE STREET, EASTCOTE

Change of use from unrestricted Class B8 open storage to a restricted use for positioning of up to 68 containers for self-storage use.

PLANNING BACKGROUND

*01.05.2015: Approval of Certificate of Lawful Use for Class B8 open storage
[70717/APP/2015/921]*

Mid 2017: Purchase by current owners and erection of fence/hardstanding

27.04.2018: Application for CLOPUD for 'provision of hardstanding and associated use of land for storage'

*22.06.2018: Approval of CLOPUD
[70717/APP/2018/1386]*

30.05.2018: Application for planning permission for 'erection of security fencing and replacement entrance gate (part retrospective)'

*15.11.2018: Approval of application for pp
[73373/APP/2018/1999]*

23.04.2019: Application for use of land for siting of storage containers (with restrictive conditions)

*22.07.2020: Refusal of planning permission as sought
[70717/APP/2019/1188]*

During this history and following confirmation that the land use and structures on the site were indeed lawful, consideration had been given in early 2019 to the alternatives of either

- continuing on the same path, with further open storage options available, in the knowledge of the likelihood of ongoing concerns for nearby residents and ongoing involvement of the Council's anti-social behavior unit

or

- listening to their concerns and presenting the alternative that would be in the best interests of all parties by using the entire site for container storage, alongside being

able to restrict access to the site through the installation of electronically-controlled gates – and alongside better circulation and a suitable landscaping scheme.

The latter would have

- a) the advantage for the local authority as they would have no more pallet storage or window installers accessing the site on an ad-hoc basis and
- b) a benefit to the owners of a properly-managed site without numerous tenants.

Accordingly and following a meeting with the Council's Enforcement Officer and its Anti-Social Behaviour Unit (both responsible for dealing with the ongoing residents' complaints), the current application was then submitted and validated in April 2019.

Limited response was received from the case officer during the determination period. No responses to consultation (or objections) were published on the Council's planning applications website. In particular, several requests were made to see the consultation observations of the Council's Highways Officer to understand whether there were any concerns.

The application was reported to committee on 17 July 2019 without any further correspondence with the application; the application was refused in accordance with recommendation.

In the absence of any assistance other than noting four early objections, a helpful brief meeting was held with an administrative officer after determination, when copies of responses and representations were finally handed over – naturally too late for any applicant response or submission of further materials.

THE APPEAL SITE

The site concerned is approximately 0.25 acres (0.19 Ha) of land in the metropolitan green belt that has established B8 use for storage through a certificate of lawful use issued by the Council. Together with the permitted erection of fencing and gates as granted retrospectively by the Council.

It lies on the very edge of the green belt, fronting onto Fore Street by means of a large double gate. Fore Street is a suburban road with residential properties on only one side. Alongside the appeal site to its south is a retail nursery garden (also a base for landscape contracting). Further to the west is a dense belt of old woodland.

There are currently four tenants on site, the fourth having commenced in June 2018 and which is storing pallets on the site, collecting and returning these to and from the site on a daily basis. There is also a further tenant storing vehicles on the site.

Despite the tenants generally only accessing during normal hours of 08.00 to 18.00, local residents have complained to the Environmental Health Department of LB Hillingdon on a regular basis, particularly where there has been repair of pallets rather than just storage. Whilst the Council is having to act whenever they can in order to deal with these complaints, it is notable that the rate of complaints has reduced since the installation of the hardstanding and secure access gates – alongside more stringent site monitoring.

However, the lawful use of the land is for storage and therefore now includes a variety of individual businesses, including the open storage of pallets. Such uses are effectively unconstrained as not restricted by planning conditions or other controls as having been validated as recently as 2018 in their current form. Whilst it is nevertheless recognised that a substantial intensification of use could lead to an argument that there has been a material change of use, this is unlikely here in view of the ‘base’ of a high level of recognised activity when the recent certificate was issued.

As set out in the covering letter accompanying the application, the proposed development would

- a) Provide a permanent new land use with suitable controls to ensure lesser impacts and thus provide public benefit,
- b) Remove the uncontrolled storage on site and,
- c) On implementation, take away the current lawful open storage use.

Nearby residents have in part misunderstood this basis in their objections, noting only the suggested harms from the placing of containers for self-storage rather than considering the balance between the current *status quo* and the new proposal.

Moreover, many have also implied that this organised storage would lead to the installation of 60 or more new businesses on the site and suggesting a major increase in activity and traffic generation as a result. The transportation aspects are dealt with later in this statement.

It is noted in passing that some objection petitioners live at considerable distances from the site and are not at all directly affected.

The proposal now is for a change of use allowing the positioning of a suite of conventional shipping containers of 20 ft by 8 ft each, without power or lighting and without the necessary services for an employment basis (e.g., WCs).

This is a proposal for the placing of containers for self-storage within Use Class B8, rather than any other form of business activity. It is not for built development.

PLANNING POLICY ISSUES

Countryside and land use

As the site is outside the built-up area and thus within countryside, normal planning policies for the countryside apply in this case. These would normally preclude a new use for storage in such a location. However, this is a brownfield site which already contains substantial storage activity, such that the intended controlled and more restricted use would offer public benefits as a substantial material consideration in the planning balance.

The new restriction in operating hours, the retention of controlled security gates to ensure this, the more effective circulation within the site, the limitation on the heights and extent of storage by installation of a maximum number of containers and the abandonment of open storage all offer the prospect – and reality – of a much more controlled and less intrusive storage base off Fore Street; this will be to the benefit of residents through reduced visual effects and reduced highway activity.

Together, these are important material considerations when judged against existing uncontrolled and more harmful conditions.

Green belt

It is also noted that the site is within designated green belt, where additional considerations are in play.

NPPF 2019 makes clear that ‘inappropriate development’ in green belt is regarded as harmful, requiring very special circumstances to justify any proposal.

Paragraph 145 notes that *the construction of new buildings* would be inappropriate but this does not apply to a change of use of land.

However, as paragraph 146 of the NPPF also confirms, ‘*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. These [include]: ... b) engineering operations; ... e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).*’ Accordingly, material changes of use which preserve its openness and do not conflict with the purposes of its inclusion in green belt are not inappropriate.

Paragraph 134 of NPPF confirms the purposes of green belt as:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

With the appeal site within green belt being already in lawful use for largely unconstrained and intrusive open storage, the change of use to a restricted and enclosed storage use does not conflict with any of these purposes, being neutral in each respect.

Accordingly, with the proposal being for a material change of use of land 'which does not conflict with the purposes of including the land within it', the test for the current appeal proposal for a change of use becomes whether there is any clear negative impact on openness as a result of that change.

Whilst the NPPF approach is preferably to 'preserve its openness', in this case where there are established lawful uses which themselves already have a material and negative effect on openness, the balance has to be struck as to whether there is to be additional negative, neutral or a positive effect on openness.

Here, the site

- a) has unrestricted lawful use for open storage with no height limitations and
- b) is already surrounded by a lawful boundary fence but with no requirement to retain it,

such that the new proposed installation of containers with a maximum height equivalent to the boundary fence and planting would be less intrusive in the landscape than the recent lawful operation of the site and

- c) result in a benefit to openness as compared with storage to an uncontrolled height.

The matter therefore falls to be considered on the basis of a balance of landscape and visual consequences rather than harm *per se* to green belt – and these must surely be positive. That impact is positive rather than neutral or negative.

Very special circumstances

If it were adjudged alternatively by the Inspector that the effect on openness is either neutral or harmful in terms of NPPF para 146 criterion e) (which is not accepted) or that in terms of NPPF para 145 the positioning of containers is *the construction of buildings* (which is also not accepted), the matter would still also have to be considered on the alternative basis on its own merits but requiring very special circumstances to justify it being permitted as required by NPPF para 144.

In only those circumstances and with any potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, needing to be clearly outweighed by other considerations, there are clearly a substantial number of benefits which together comprise very special circumstances sufficient to allow the appeal. With any adjudged harm at worst being minimal, the consideration becomes one of the benefits providing very special circumstances including:

- The required permanent retention of the boundary fence and planting as now installed
- The new limitations on both the heights and the extent of storage by installation of a maximum number of single-height containers

- The complete abandonment of uncontrolled open storage and its more intrusive visual impacts
- Newly-restrictive operating hours, with the retention of controlled security gates to ensure this
- More effective layout and circulation within the site, requiring no reversing

all of which offer

- i. clearer long-term planning control over external appearance, reducing impact on the surrounding countryside (and the wider openness of local green belt),
- ii. better protection of amenity for nearby residents and
- iii. better means by which the local planning authority can monitor and control activity on this site.

REVIEW OF REASONS FOR REFUSAL

1. Inappropriate development in the green belt

As noted above, it is the appellant's view that the proposal is not for inappropriate development in the green belt as , rather, being for a change of use of land as noted in paragraph 146 of NPPF. The proposal thus falls to be considered outside normal green belt considerations on the basis of its improved residential amenity and visual effects, both of which arise from the new controls implicit in the application/appeal proposal.

In the event of the Inspector concluding otherwise that the proposal is indeed inappropriate development for some reason, it is the appellant's view that these benefits themselves create the very special circumstances nevertheless justifying a grant of consent as on balance being beneficial to openness. In addition to the obvious benefits for local residents.

2. Detriment to visual amenity

A rejection of the proposal would lead to the existing use of the land remaining largely unconstrained (other than if for some alternative material change of use) with no reasonable limitation on heights, extents or types of outdoor storage or with no requirement to retain the existing boundary fencing or gates.

As now proposed, however, each of these matters would become constrained as a result of the appeal proposal, to the benefit of visual amenity within this area of contained local landscape.

3. Failure to demonstrate no harm to highway and pedestrian safety

The attached correspondence with the local planning authority indicates the desire of the applicant to address any concerns such as, in particular, any highways concerns. No response was received in this respect and no indication of the outcome of internal consultation responses placed on the Council website prior to determination of the application.

Accordingly, the applicant was unable to address any unknown particular concerns if they arose. Such information would have been provided if requested. It is now provided to the Inspector.

HIGHWAYS MATTERS

As a result of the generalised and unspecific reason for refusal, the appellant has commissioned a more detailed highways assessment from a competent consultancy. A copy of the Transport Statement is now attached to this appeal statement.

Recognising the potential concerns raised in the highways consultation response (seen after determination of this planning application), the new Statement deals in particular with traffic generation and with on-site vehicle movements.

The assessment was made through a comparison between typical recent levels of occupation across the site – at c.1900 sqm – and the likely installation of 64 no. standard shipping containers. The outcome assessment is as follows:

DAILY	Existing B8 storage	64 no. containers
Enter	31	17
Leave	32	17
Two-way	63	34

Representing an assessed 46% reduction in daily movements as a result of the appeal proposal against recent typical levels of occupation – a rough halving of traffic movements.

It is also noted from the trip rates identified in the TRICS data that the peak traffic generation for self-storage uses is in the periods 12.00 to 15.30 each day and thus at a time when the local road network is considerably quieter than in conventional traffic peak periods.

With the Statement confirming that the local highway network has adequate carriageway widths and no record of recent personal injury accidents, such movements would be assessed as acceptable and, in any event, representing reductions over current lawful use of the site.

It is also noted that concern was expressed in the highways consultation response over the ability to manoeuvre vehicles within the site. A revised site layout has therefore been prepared and included in the Statement showing suitable on-site tracking for a 5m van typically accessing self storage and up to a 10m large truck which may be used occasionally for delivery/pick up. This ensures that such vehicles can safely enter and leave the site in a forward gear, with no reversing onto the highway.

This revised layout shows the positioning of 64 no. containers on the site (within the 'up to 68 containers' included in the description of development) and the tracking and traffic generation calculations were based on this reduced number. The appellant is content that a condition should be applied in the event of the change of use being permitted to require this reduced number and layout.

Accordingly, the potential concerns raised in the highways response and reflected in the third reason for refusal (and raised by nearby residents) are reasonably allayed, reflecting an expectation of a reduced level of vehicle movements compared with existing usage of the site and improved turning facilities.

Adequate space remains outside this tracking for the necessary policy-required parking for cars/vans, motor-cycles and cycles.

SUGGESTED CONDITIONS

To provide the necessary certainty for the local planning authority and for the amenity of local residents, it would be appropriate for conditions to be attached to any consent with similar wording to the below:

- a) Any containers positioned on the site should be used only for Class B8 storage uses and for no other purposes; the permitted storage uses shall only be within the containers positioned on the site and there shall be no external or open storage.
- b) Hours of operation limited to 08.00 to 20.00 on Mondays to Fridays, 09.00 to 17.00 on Saturdays and 09.00 to 13.00 on Sundays and Bank Holidays.
- c) No more than 64 no. containers shall be positioned on the site in accordance with the layout in drawing 1775-D-02 unless otherwise agreed in writing with the local planning authority.
- d) The existing fencing and gates surrounding the site shall be retained at all times during the use for positioning of the containers; the gates to Fore Street being equipped with a security system ensuring no access outside the hours of operation.
- e) All containers positioned on the site shall be maintained as coloured either matt black or dark green.

APPEAL CONCLUSIONS

The existing use of the appeal site for open storage has been confirmed as lawful by the local planning authority but has been the subject of numerous and ongoing objections from local residents and requiring action by the Council's Anti-Social Behaviour Unit to ensure compliance within the lawful open storage uses and restricting ancillary operations associated with those uses. Whilst the appellant as new owner has undertaken new management measures and installed new fences/gates, etc., complaints continued over the open storage operations and associated activities.

Those uses continue to operate without constraint as to hours of operation, nature of materials stored on site, traffic generation and the height(s) to which materials can be stored.

The appeal proposals seek to install a more controlled storage use which avoids all these problems, to the benefit of local residents and to the Council's ASBU and Planning Enforcement teams. The enforcement team confirmed that it was unlikely to act in the interim if the now-current application were submitted.

The current proposal seeks to better control storage uses by operating the site as a limited self-storage facility, with (now) 64 containers positioned on the land – avoiding any open storage. This use would be within the lawful use as confirmed by a Certificate but would be far more restricted. Indeed, implementation of the appeal proposal would thus establish a more controlled storage use on the same land and with no ability to revert without express permission – i.e., a one-way change.

The appeal proposals have a guarantee of a reduced visual impact on the surroundings – both for Fore Street residential and open countryside. There are accordingly clear landscape benefits from the proposals. They would have a beneficial (or at least neutral) effect on openness within the green belt.

The appeal proposals also have a clear prospect of reduced traffic generation onto the local highway network and reduced peak hour activity, offering clear highways and residential amenity benefits.

The appeal proposals would remove any open storage and associated activities, replacing these with restricted and controlled internal storage units. There are accordingly clear amenity benefits for local residents who have for a long time been vexed by the lawful ongoing uses.

A reasonable interpretation of NPPF indicates that the proposal is not inappropriate development in the green belt and should be judged in the normal way on the landscape benefits arising from a more restricted operation. If an alternative view is taken that the change of use is indeed inappropriate development, then the inevitable reductions in local effects constitute very special circumstances to justify consent.

Either way, the proposals offer reduced effects on green belt and countryside – a public benefit by themselves. That they also resolve the long term concerns for local residents over ‘anti-social’ on-site open activities and over vehicle movements on the local highway network are also public benefits.

Together, the proposed change of use to positioning of self-storage units thus offers a reduction of effects on landscape, local residents and the highway network; it provides an ongoing strict basis for control by the Council; it also simplifies ongoing management requirements for operation of the site.

Development plan policies presume against new such developments in the countryside and in green belt – but do not adequately address improvements to the appearance and operation of existing business in such locations. In this case, the sought transfer from lawful unrestricted open storage in the green belt to a restricted and controlled closed storage operation with fences and gates offers the wide range of practical and visual benefits as strong positive material considerations. And a beneficial (or at least neutral) effect on openness.

The Inspector is requested to carry out the required planning balance and to thereby conclude that the appeal be allowed.

The outcome would be with positive aspects for all parties involved and, once implemented, remove any prospect of reversion to the current uncontrolled open storage.

ANNEX – policy extracts

1. LB Hillingdon Local Plan Part 2 – to be adopted 16 January 2020.

DEVELOPMENT IN THE GREEN BELT, METROPOLITAN OPEN LAND AND GREEN CHAINS

6.17 The extent of the Metropolitan Green Belt, areas of Metropolitan Open Land and Green Chains in the Borough is shown on the Policies Map.

Green Belt

6.18 The NPPF provides guidance on what is acceptable or not in the Green Belt and this is reflected below for clarity. Construction of new buildings, change of use or development on land in the Metropolitan Green Belt is inappropriate development unless it is for the following purposes:

- provision of appropriate facilities for agriculture, forestry, outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;*
- 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;*
- the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces; and*
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which 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.*

6.19 Inappropriate development is, by definition, harmful to the Green Belt and therefore any proposal for such development will need to demonstrate ‘very special circumstances’ to set aside the presumption against such development. Very special circumstances to justify otherwise inappropriate development will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other material planning considerations.

6.20 Dwellings are inappropriate development in the Green Belt and Metropolitan Open Land but where they exist, alterations and extensions will be acceptable, provided they do not result in disproportionate additions over and above the size of the original building.

Policy DMEI 4: Development in the Green Belt or on Metropolitan Open Land

A) Inappropriate development in the Green Belt and Metropolitan Open Land will not be permitted unless there are very special exceptional circumstances.

B) Extensions and redevelopment on sites in the Green Belt and Metropolitan Open Land will be permitted only where the proposal would not have a greater impact on the openness of the Green

Belt and Metropolitan Open Land, and the purposes of including land within it, than the existing development, having regard to:

- i) the height and bulk of the existing building on the site;***
- ii) the proportion of the site that is already developed;***
- iii) the footprint, distribution and character of the existing buildings on the site;***
- iv) the relationship of the proposal with any development on the site that is to be retained;***
- and***
- v) the visual amenity and character of the Green Belt and Metropolitan Open Land.***

2. NPPF 2019

134. Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;*
- b) to prevent neighbouring towns merging into one another;*
- c) to assist in safeguarding the countryside from encroachment;*
- d) to preserve the setting and special character of historic towns; and*
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

144. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

145. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt....

146. 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. These are:

- a) mineral extraction;*
- b) engineering operations;*
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;*
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and*
- f) development brought forward under a Community Right to Build Order or Neighbourhood Development Order.*