

Name of Applicant	Proposal	Expiry Date	Plan Ref.
Mr Michael Hodgetts	Retention of 13 storage containers (and hardstanding) Land at Backlane Farm, St Kenelms Road, Romsley, Worcestershire B62 0PG	29.05.2024	24/00229/FUL

Councillor Nock has requested that this application be considered by Planning Committee rather than being determined under delegated powers.

RECOMMENDATION: That planning permission be **REFUSED**

Consultations

Worcestershire Highways

St Kenelms Road has footways, no street lighting and no parking restrictions are in force in the vicinity. The site is located within walking distance of bus stops which are located approx. 290m from the proposal.

It is noted parking has not been highlighted on the site plan for the occupants of the containers when visiting the site. A site visit confirmed parking space is available fronting the containers; however, it is still recommended the applicant highlights the area for parking available.

It is also noted a double gate has been installed between containers 1 and 13.

Due to the type of development proposed (storage only), vehicles are used to bring and take materials from the containers which is accepted in this instance. Pedestrian or highway safety is not compromised, and it is noted there will be no additional staff employed on site associated with this proposal.

This applicants Statement has confirmed this is a B8 retrospective development and that the containers are being rented out to local businesses for storage purposes only, a site visit confirmed this to be the case.

The existing shared vehicular access will be used by the proposed development and the number of trips that may be generated by the proposed development will not have a severe impact on the highway or upon pedestrian safety.

Worcestershire County Council PROW Officer

No objection.

North Worcestershire Water Management

The gravel hardcore would be classed as permeable. It is assumed that the runoff from the containers will be allowed to permeate into the ground and therefore the storage contains should not have resulted in an increase in runoff leaving the site. I have therefore no adverse comments to make.

WRS - Contaminated Land

No adverse comments to make.

WRS - Noise

No further comments in relation to the updated plans.

WRS - Air Quality

WRS have no adverse comments regarding Air Quality (Operational) regarding the updated plans.

Romsley Parish Council

No objection

Publicity

10 letters sent 09.07.2024 (expired 02.08.2024)

Site Notice posted 04.10.2024 (expired 28.10.2024)

Press Notice published 19.04.2024 (expired 06.05.2024)

1 comment of objection as follows:

- Concerns expressed over a lack of fairness and consistency in decision taking. Planning application 09/0282 as an example related to an established business wanting to expand but on this occasion the individual proposal deserved to receive a refusal to safeguard the countryside from encroachment etc. Planning applications 24/00307/FUL & 24/00229/FUL also represents an established business having already expanded (hence the retrospective applications) but claiming diversification to enable encroachment of the countryside

Councillor Nock

The application supports farm diversification. The site already has a café, farm stores and commercial units operating successfully. The site benefits the vitality at the area. The containers are not considered to be visually intrusive.

The visual impact of the containers is small as they are located on hardstanding within the farm and commercial site. They are not located on green land, near a public highway or public footpath. They are screened by mature hedgerows. In these circumstances there is limited harm to the openness of the Green Belt and planning permission should be granted.

Relevant Policies

Bromsgrove District Plan

BDP1 Sustainable Development Principles

BDP4 Green Belt

BDP13 New Employment Development

BDP15 Rural Renaissance

BDP19 High Quality Design

Others

Bromsgrove High Quality Design SPD

National Planning Policy Framework (2023)

Relevant Planning History

24/01005/FUL	Change of use of land from agricultural use to create external seating area and extended car parking area in association with the commercial uses on the site (retrospective)	Pending consideration	
24/00307/FUL	Retention of storage compound and hardstanding, including 2.4m palisade fence	Pending consideration	
24/00228/CPE	Provision of four storage containers on the land for the purposes of storage	Withdrawn	09.08.2024
23/01394/FUL	Retention of cafe, toilets, store extension and two air-conditioning units and associated car park	Granted	09.07.2024
23/01375/FUL	Retention of boundary fence	Refused	28.05.2024

Assessment of Proposal

The retrospective proposal relates to the retention of 13 storage containers. The containers are all equally sized at 30sqm (12m long by 2.5m wide by 2.9m high). The containers are located to the north of Backlane Farm with an L configuration on gravel hardstanding. The containers are accessed from the car park serving Romsley Country Store to the south-west. The general means of access through the site is not clearly defined.

The businesses that utilise the containers are: The Grass Guru (based in Halesowen), Op Marketing (Romsley), Eastleigh Landscapes (Romsley). Op Marketing currently rent three storage containers, two containers are rented to businesses based in Halesowen, two containers are rented to local individuals, three containers are rented to Hagley Stoves & Fireplaces (based at Backlane Farm).

The containers can only be accessed during the hours when the Romsley Country Store is open which are weekdays 8am - 6pm, Saturdays 8am - 5pm, Sundays 9.30am - 4pm. Outside these times, the gates into the site are locked. The containers are permanently sited and amount to buildings on the basis of size, permanence and weight in accordance with *Skerritts of Nottingham v Secretary of State for the Environment, Transport and the Regions (2000)*.

Site Description

The site is located in the Green Belt. There is a Public Right of Way RM-522 located along the northern boundary of the site and the containers are separated from the footpath by a boundary hedge and metal gate. There is an agricultural storage building to the west of the site and an unauthorised vehicle storage compound (the subject of

pending application 24/00307/FUL) is located to the east of the site accessed via a metal gate and surrounded by a palisade fence. Backlane Farm comprises a number of uses, a dwelling house and commercial uses including Romsley Country Store, a stove showroom, florist and the Rickyard Cafe. These are accessed from St Kenlems Road and are all located to the south-west of the containers.

Background

Members should note that a previous Certificate of Lawfulness application for four storage containers (Ref: 24/00228/CPE) was withdrawn on 9 August 2024. It was considered that the evidence presented was insufficiently precise and unambiguous to demonstrate that the containers would be lawful and meet the requirements of Section 191 of the Town and Country Planning Act 1990. Thereby, the retrospective application was amended in Sept 2024 to include four additional containers and therefore a total of 13 storage containers are now under consideration.

Principle - Green Belt

Definitional Harm

The site is located in the Green Belt. The proposal for the retention of the 13 storage containers would not fall under any of the exceptions of appropriate development as outlined in policy BDP4 of the Bromsgrove District Plan (BDP) or within paragraphs 153 - 155 of the National Planning Policy Framework (the Framework). The containers are rented out on a commercial basis. Thereby, the proposal amounts to inappropriate development in the Green Belt, which is, by definition, harmful and should only be approved in very special circumstances. The definitional harm by virtue of inappropriate development carries substantial weight.

Conflict with Green Belt Purposes

There is harm caused by virtue of encroachment into Green Belt as a result of the unauthorised development. The safeguarding of the countryside from encroachment is one of the fundamental purposes of designating land as Green Belt (paragraph 143 of the Framework). It is evident from historic imagery (dating to 2013) that the land was an undeveloped field apart from limited storage ancillary to agriculture. The area has been transformed with gravel hardstanding to accommodate the containers (and, further to the east, the vehicle compound which is the subject of application 24/00307/FUL). The harm by virtue of encroachment carries substantial weight.

Impact upon openness

The correct approach is to consider that openness has three elements: spatial, visual and activity. The containers each have a floorspace of 30sqm and a volume of 87cuM. The combined floorspace and volume amounts to 390sqm and 1131cuM respectively. This is a significant amount of development and spatial impact which also results in significantly increased activity to and from the 13 separate containers. When the NPPF refers to 'preserve' that means that there can be no harm or adverse effect of any level to openness (as per *R. (on the application of Boot) v Elmbridge BC [2017] EWHC 12 (Admin)*).

Intentional unauthorised development

Written Ministerial Statement - HLWS404 'Green Belt Protection and Intentional Unauthorised Development' states that intentional unauthorised development is a material consideration in planning decision making, to ensure stronger protection for Green Belts. It is unclear how, given the scale of the development, that the applicant would not have applied for planning permission and therefore the alleged breaches of planning control fall into the 'intentional unauthorised' category. The intentional unauthorised development carried moderate weight.

Green Belt balance

As outlined above, inappropriate development is by definition harmful and should not be approved except in very special circumstances. The requirement for Very Special Circumstances ('VSC') as set out at paras 152 and 153 of the Framework is an all encompassing test with all the harms and any of the benefits need to be weighed into the balance. In this weighing exercise, the benefits must clearly outweigh the harms. The following matters have been put forward by the applicant:

- Provision of affordable storage facilities. The ability to store stock locally is essential for the ongoing operation of the businesses using the containers and therefore they support the ongoing success of local employers.
- A condition could be applied to limit the total number of containers on the site to 13 maximum and to limit the use of the containers to only individuals or businesses within a four mile radius of the site. A condition could also be applied to have the containers painted dark green
- Alternative sites with long established container storage would be Halesowen Storage (3.6 miles away), Cradley Heath Self Storage (5 miles away), Stourton Storage (8.3 miles away) or Kingswinford Containers (8.7 miles away). There is no evidence that any closer locations have been granted planning permission for B8 storage use
- Policy support within the Bromsgrove District Plan BDP15 Rural Renaissance criteria (a) development that contributes to diverse and sustainable rural enterprises within the District" and "(g) rural diversification schemes' whilst recognising that within the Green Belt inappropriate development which is otherwise acceptable within the terms of this policy will still need to be justified by very special circumstances".
- Policy BDP13 (e) supports sustainable economic development in rural areas through proportionate extensions to existing business or conversion of rural buildings taking into account the potential impact on the openness and the purposes of including the land in Green Belt
- The site of the containers would otherwise be used for agricultural storage of machinery, produce and materials
- They are located on an area of hardstanding that was laid more than 10 years ago
- The site of the containers is well screened from the public footpath to the north
- The site sits within the village of Romsley and the northern boundary of the site does not extend into the Green Belt beyond the general limits of the northern edge of the village
- The majority of the containers have been in position for five years or longer and have generated no adverse comment or feedback from local residents
- Loss of farm subsidy payments
- Requirement for tenants to travel much greater distances to find alternative space with planning permission

Officer Response

In terms of the Green Belt balance, it should be noted that the site is not located within the village envelope of Romsley but within the open Green Belt. The storage of agricultural machinery and equipment would be considered ancillary to agriculture and therefore not amount to development (*Millington v Secretary of State for the Environment, Transport and the Regions [1999]*) and therefore any fallback in relation to the impact of this would carry limited weight.

Whilst it should be acknowledged that there are limited economic benefits arising from the storage containers and potential enhancements to the viability of the farm business, it is important to draw a distinction between a personal and public benefit. The leaseholders of the containers derive benefit from the storage facilities but this would reasonably be regarded as a personal benefit with limited weight given in the Green Belt balance. The main points put forward relate to economic considerations but these are not unique or very special circumstances and thereby carry limited weight. The sustainability argument is offset by the fact that some of the tenants are travelling from Halesowen to utilise the storage containers and therefore any perceived sustainability benefits would be at best neutral in the planning balance.

The matter raised in terms of visual impact is noted but the location of the proposal would not address the harm by reason of inappropriateness and would carry limited weight. The suggested condition to limit the number of containers would not address the harm arising in terms of the openness of the Green Belt and carries no weight in favour of the proposal. Policies BDP13 and BDP15 need to be read collectively so that the criteria cited are considered in the appropriate context. In the case of policy BDP13, criterion (e) refers to 'sustainable economic development in rural areas through proportionate extensions to existing business or conversion of rural buildings taking into account the potential impact on the openness and the purposes of including the land in Green Belt. The retrospective proposal does not relate to an extension or conversion.

In relation to policy BDP15, criterion (a) states that development which contributes to diverse and sustainable rural enterprises within the District would be encouraged. The policy criteria should be read collectively and criteria (b) to (l) appropriately define what should be considered a sustainable rural enterprise including agricultural dwellings and the conversion of rural buildings. It does not include new standalone buildings or containers for employment/storage purposes.

In summary, the retrospective proposal would fail to 'preserve' the openness of the Green Belt and would have an adverse impact upon openness (*as per R. (on the application of Boot) v Elmbridge BC [2017] EWHC 12 (Admin)*). The substantial harm outlined above is not outweighed by the matters put forward by the applicant.

Design

It is not considered that the containers, as placed in this location, integrate with the adjoining agricultural building or the wider setting of the site, thereby conflicting with policy 19 of the BDP and section 6.2 of the Bromsgrove High Quality Design SPD. However, it is noted that there is limited visibility of the containers from public vantage points including the footpath to the north which mitigates their impact. This conclusion is separate from the assessment of the impact on the Green Belt.

Highways

No objections have been raised by Worcestershire Highways. Pedestrian or highway safety is not considered to be compromised, and no additional staff would be employed on site. The existing shared vehicular access will be used by the proposed development and the number of trips that may be generated will not have a severe impact on the highway or pedestrian safety.

Sustainability/Suitability of Location

In respect of sustainability, it is considered that the location of the containers would be inherently unsustainable requiring travel by private vehicle to enable their use for storage purposes. It is accepted that the nature of the storage use would militate against the use of any alternative means of transport to enable access.

However, this does not address the issue of whether the development is in an appropriate location, with particular regard to the settlement hierarchy outlined within policy BDP2 of the Bromsgrove District Plan (BDP). The policy sets out that the development of the District would follow the following hierarchy: (a) Development of previously developed land or buildings within existing settlement boundaries which are not in the designated Green Belt; (b) Expansion Sites around Bromsgrove Town (as identified in BDP 5A); (c) Development Sites in or adjacent to large settlements (as identified in BDP 5B). Similarly, Policy BDP 13 follows this hierarchy in supporting economic development opportunities within Bromsgrove Town and Large Settlements including within the Town Expansion Sites and Other Development Sites identified as suitable for employment use in BDP5A and B. The Policies remain consistent with the NPPF 2023 (the Framework). In the event that the proposal was allowed, this could be used too easily and often in support of other commercial employment schemes in the wider rural area, without any regard to the settlement hierarchy of the BDP which establishes a logical and sustainable approach to development in the District.

Whilst there are some modest economic benefits arising from the retention of the containers, this does not outweigh the harm identified in not guiding new commercial employment development towards sustainable locations in accordance with the settlement hierarchy set out in the adopted development plan (the BDP).

Ecology/Protected Species

The area is not defined as sensitive in terms of habitat and does not comprise a Site of Special Scientific Interest (SSSI) or Special Wildlife Site (SWS). Retrospective applications are exempt from the Biodiversity Net Gain 10% requirement. The application is not accompanied by a Preliminary Ecological Appraisal.

However, given the retrospective nature of the proposal it is not possible to determine whether or not the development (and the adjoining retrospective development under consideration (Ref: 24/00307/FUL and 24/01005/FUL) have had a detrimental impact on protected species.

Other matters

There have been no objections raised by Romsley Parish Council, the WCC PROW Officer, North Worcestershire Water Management, Worcestershire Regulatory Services in relation to Noise, Air Quality or Contaminated Land. The third party representation refers to the issue of consistency in decision taking citing application 09/0282 (at the Hylton

Hound Hotel, Wythall) where the extension of a commercial facility was refused due to encroachment and conflict with Green Belt policy. It is considered that the recommendation on the application under consideration would be consistent with the decision taken in application 09/0282, adjusted to take into account the current policy context of the BDP and the Framework.

The Representation from the Ward Councillor is noted and outlines the diversification requirements and the economic benefits arising from the retrospective proposal. These matters have been fully addressed in the Green Belt appraisal above, the points raised would not be unique to the site or amount to very special circumstances to justify inappropriate development.

In terms of diversification, Members should note that of cafe, toilets, store extension, two air-conditioning units and car park were also constructed without the benefit of planning permission and retrospective consent has been granted (Ref: 24/00307/FUL). Therefore, the site has the opportunity to economically benefit from farm diversification without additional unauthorised development.

Conclusion

In summary, having considered all the information presented, it is concluded that the harm that the retrospective proposal causes to the Green Belt, by virtue of inappropriateness and other harm including harm to the openness and purposes of Green Belt would not be clearly outweighed by the matters put forward by the applicant and any other considerations. Thereby, the very special circumstances required to justify inappropriate development do not exist and permission should be refused.

RECOMMENDATION: That planning permission be **REFUSED**.

1. The 13 storage containers are substantial in scale and have a significant and detrimental impact upon the openness of the Green Belt. The retrospective proposal conflicts with the purposes of including land in the Green Belt and amounts to inappropriate development. No very special circumstances have been put forward or exist which would outweigh the harm caused. Thereby, the development would be contrary to policies BDP1 and BDP4 of the Bromsgrove District Plan (2017) and the NPPF.
2. The proposal would fail to direct new commercial employment development towards sustainable locations in accordance with the settlement hierarchy set out in the adopted development plan, the Bromsgrove District Plan. Thereby, the site for the retention of the storage containers is not considered to be an appropriate location for commercial development and would be contrary to the settlement hierarchy outlined within policy BDP2 of the Bromsgrove District Plan (BDP) and to the principles of sustainable development set out within paragraphs 12 and 15 of the NPPF.

Case Officer: David Kelly Tel: 01527 881666
Email: david.kelly@bromsgroveandredditch.gov.uk