



# REGULATORY SERVICES COMMITTEE

# REPORT

19 December 2013

**Subject Heading:**

P1081.13 – Chanlin, Broxhill Road,  
Havering-atte-Bower - retention for five  
years of mobile home for residential use  
(received 2 September 2013)

**Report Author and contact details:**

Simon Thelwell  
Planning Manager (Projects and  
Regulation)  
Simon Thelwell [@havering.gov.uk](mailto:Simon.Thelwell@havering.gov.uk)  
01708 432685

**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework

**Financial summary:**

None

**The subject matter of this report deals with the following Council Objectives**

Clean, safe and green borough	<input checked="" type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input type="checkbox"/>
High customer satisfaction and a stable council tax	<input type="checkbox"/>

**SUMMARY**

This report concerns an application for the retention for an additional five years of a mobile home for residential use following the expiration of the previous 2010

permission. The permission expired on 26<sup>th</sup> November 2013. Staff consider that the proposal does not provide very special circumstances to over-ride the presumption against inappropriate development in the Metropolitan Green Belt and would therefore be contrary to green belt policies contained in the Local Development Framework Core Strategy and Development Control Policies Development Plan Documents and refusal is therefore recommended.

Councillor Sandra Binion has called in the application to hear the very special circumstances.

## **RECOMMENDATIONS**

It is recommended that planning permission be refused for the following reason:

1. The site is within the area identified in the Core Strategy and Development Control Submission Development Plan Document Policy Plan as Metropolitan Green Belt. The Core Strategy and Development Control Submission Development Plan Document Policy and Government Guidance as set out in the NPPF (National Planning Policy Framework) states that in order to achieve the purposes of the Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new building will only be permitted outside the existing built up areas in the most exceptional circumstances. No special circumstances to warrant a departure from this policy have been submitted in this case and the proposal is therefore contrary to Policy DC45 of the Core Strategy and Development Control Submission Development Plan Document Policy and Government Guidance as set out in the NPPF.

## **REPORT DETAIL**

### **1 Background**

- 1.1 The previous permission for the retention for 3 years of mobile home for residential use under application number P0008.10 was approved at Regulatory Services Committee on 18<sup>th</sup> November 2010 following a deferral from the March 2010 committee. Staff recommended refusal, however members decided to approve the proposal based on the very special circumstances put forward by the applicants at that time.
- 1.2 The very special circumstances provided in the 2010 permission are as follows;
  - The applicant has been made redundant, was made homeless and bought Chanlin out of their savings. They have no other savings to fall back on

- The applicant's daughter was being bullied at school; moving to the mobile home has resolved this issue
- Both children attend faith schools and need to be close to home/school/church
- A move could impact on the children's education as this a sensitive time and would result in both children having to change schools
- Youngest child has had behaviour problems
- Applicant's job has little job security due to recession
- The mobile home provides a fixed address which aids employment seeking; being homeless would have made job-hunting difficult
- The applicant's wife is a full-time carer for her mother and cannot therefore have paid employment, also the fresh air is good for her mother who lives in Dagenham
- Having to move from Havering-atte-Bower would mean a move away from existing ties with schools, job etc.
- It has been impossible to afford alternative accommodation
- Various documentation has been provided in support. These show that the girls both attend school in Dagenham and the applicant's mother-in-law also lives in Dagenham.

1.3 Prior to the last permission, the applicant had submitted a number of applications, the first being application P1522.07 for the siting of a mobile home for residential use (retrospective) which was refused in November 2007 and was dismissed in a subsequent appeal subsequent appeal in September 2008. The Planning Inspector concluded:

- "I therefore conclude that, even if the mobile home were considered to be a building, it would still be inappropriate development causing harm to the openness of the Green Belt"

In respect of the additional special circumstances information submitted at the appeal:

- "Overall, I consider however that these other considerations, either individually or cumulatively, do not clearly outweigh the harm that would be caused by reason of inappropriateness and to the openness of the Green Belt. As a result, there are no very special circumstances sufficient to justify the proposal."

1.4 Another scheme for temporary use for an additional 3 years was refused in 2009 (planning reference number P0597.09). The applicant had the right to

appeal to the Planning Inspectorate at the time but did not do so. However, the applicant did appeal against the related Enforcement Notice in 2010.

- 1.5 Prior to the previous permission, the applicant's appeal against the Enforcement Notice which required the removal of the mobile home from the land and its reinstatement to open land, was dismissed in August 2010. The Planning Inspector upheld this Enforcement Notice on the basis that following dismissal of the appeal against refusal of the appellant's retrospective application. The Inspector took the view that; "From this, it is clear to me that the appellant should have been aware from the end of 2008 that there was a reasonable prospect that the Council would take enforcement action which would result in him having to find suitable alternative accommodation for himself and his family."

## **2. Site Description**

- 2.1 The application site is located on the eastern side of Broxhill Road. The application site consists of an area of mainly hardstanding to the front of the site with the mobile home located parallel to Broxhill Road and a garden to the rear. It is believed that home had stood there for 7 years. The site has an overall area of 0.16 hectares.
- 2.2 The application site and surrounding area are within the Metropolitan Green Belt. There are a number of residential properties fronting the road with some commercial uses also evident. Nonetheless, the surrounding area is mainly open fields, including gaps between the existing residential properties.
- 2.3 The house which was as a mobile home within the previous permission in 2010 has since had a wall erected beneath the house around all elevations effectively which may appear that it would be fixing it to the ground and existing buildings to the rear of the site has since been erected, it would now appear the site would be tantamount to permanent residential dwellinghouse rather than a mobile home.

## **3. Description of Proposal**

- 3.1 The proposal is for the renewal of a temporary retention for an additional 5 years of a mobile home for residential purposes and in this respect is 2 years longer than the previous temporary permission
- 3.2 A statement of very special circumstances has been submitted in support of the application. These circumstances are not dissimilar to the previous application and in summary, the statement raises the following issues:
- The applicant has been made redundant, was made homeless and bought Chanlin out of their savings. Since the grant of permission, circumstances have meant that the applicant has not been able to build up sufficient savings.

- The applicant's mother in law requires 24 hour care and such move would impact on her health
- Having to move from Havering-atte- Bower would mean a disruption of children's education during a sensitive time
- It has been financially difficult to afford alternative accommodation

#### **4. History**

- 4.1 L/HAV/1079/82 - erection of single dwellinghouse and garage - outline - refused 7/9/82
- 4.2 P1522.07 – Siting of a mobile home for residential use (retrospective) – refused on 26-11-2007 for the following reason:

*“The site is within the area identified in the Core Strategy and Development Control Submission Development Plan Document Policy Plan as Metropolitan Green Belt. The Core Strategy and Development Control Submission Development Plan Document Policy and Government Guidance as set out in Planning Policy Guidance Note 2 (Green Belts) states that in order to achieve the purposes of the Metropolitan Green Belt it is essential to retain and protect the existing rural character of the area so allocated and that new building will only be permitted outside the existing built up areas in the most exceptional circumstances. No special circumstances to warrant a departure from this policy have been submitted in this case and the proposal is therefore contrary to Policy DC46 of the Core Strategy and Development Control Submission Development Plan Document Policy.”;*

Subsequent appeal against the refusal of P1522.07 - dismissed by the Planning Inspectorate on 18<sup>th</sup> September 2008.

- 4.3 P0597.09 - temporary retention (for 3 years) of a mobile home for residential purposes - refused 14<sup>th</sup> October 2009.
- 4.4 Enforcement complaint 2009- As the 4-year rule period (after which no enforcement action could be taken) was to be exceeded shortly, an Enforcement Notice was issued requiring removal of the mobile home and reinstatement of the land.

- An appeal against the Enforcement Notice was dismissed by the Planning Inspectorate on 25<sup>th</sup> August 2010 with the Enforcement Notice upheld but varied to allow the applicant six months in which to comply. (Expired 2011)

P0008.10-Retention for 3 years of mobile home for residential use – Approved at Regulatory service committee on 18<sup>th</sup> November 2010.

Enforcement complaint 2013 – Alleged unauthorised outbuildings – Application invited, yet to be received.

#### **5. Consultation/Representations**

- 5.1 The application has been advertised on site and in the local press as a departure from Green Belt policies. Neighbour notification letters have also

been sent to 14 local addresses. 14 letters were received (Including 1 from the local MP), all in support of the applicant.

## **6. Staff Comments:**

6.1 The issues arising from this application are whether the development is acceptable in principle and, if not, whether there are very special circumstances sufficient to justify the development; the impact on the character and openness of the Green Belt, the impact on local amenity, parking and highway issues. Relevant Policies are Policies CP1, CP14, DC45 and DC61 of the LDF Development Control Policies Development Plan Document. Also Policy 7.16 of the London Plan and the provisions of the NPPF are material considerations.

### *6.2 Principle of development*

6.2.1 The proposed retention and occupation of the mobile home does not fall within the categories of development, as defined by the National Planning Policy Framework and Policy DC45 of the LDF, deemed to be appropriate. Very special circumstances are therefore required to justify what would be a departure from policy.

6.2.2 Such circumstances will only exist where the inappropriateness, together with any other harm (such as visual impact), are clearly outweighed by other considerations. The NPPF, as with previous Green Belt policy, states inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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, is clearly outweighed by other considerations.

6.2.3 Prior to appraising those very special circumstances, an examination of the proposal's impact upon the character, appearance and openness of the Green Belt is needed, together with consideration of the impact in the street scene, impact upon residential amenity and the highway.

### *6.3 Design, layout and impact on character and streetscene, Openness of the Green Belt*

6.3.1 The Planning Inspector for the previous application noted that "the appeal site is within a group of other residential properties and that from the road it does not stand out as an exception." Nonetheless he considered that the proposal "detracts from the Green Belt objectives" and that "harm would be caused...to the openness of the green belt"...

6.3.2 As with the previous application, staff still consider that the mobile home reduces the general openness of the area. Although there are residential

properties in the immediate area, there are gaps between buildings and open areas of land giving a general rural character to the area. The residential use of the site and placing of mobile home/dwelling detracts from this character and the openness of this part of the Green Belt.

6.3.3 Since the mobile home has been placed on the land, the site has taken on an increasingly residential character with the addition of outbuildings, hard surfaces, patio and formal planting. All of these residential paraphernalia that would tantamount to a dwelling house would further reduce the openness of the Green Belt.

6.3.4 Staff are also aware that other surrounding residential development either pre-dates planning, i.e., built before 1948 (including a 19<sup>th</sup> Century Listed Building), or was built in relation to agricultural holdings (with an agricultural-tie condition) or other appropriate uses in the green belt, or results from conversions of existing vacant buildings into residential use. However, Staff do not consider that the presence of other residential development near the application site sets a precedent for new, purely residential development in the green belt, even on a temporary basis, which is contrary to national planning guidance.

#### 6.4 *Impact on Residential Amenity*

6.4.1 There are several residential properties on Broxhill road, staff consider that there is not a significant impact on the amenities of neighbouring properties due to the size and location of the home and the distances from neighbours.

#### 6.5 *Highways/Parking*

6.5.1 It is considered that the proposal would not give rise to any material parking or highway issues considering the provisions for off-street parking on site.

### 7. *The Case for Very Special Circumstances*

The applicant stated four main reasons in why they have special circumstances;

#### 7.1 *Financial circumstances*

7.1.1 As with the previous application, the applicants indicate that they were unable to keep up with mortgage repayments for their home in Dagenham and they opted to sell the property and to find alternative accommodation and therefore bought the mobile home as a viable option as they could not afford to rent. The applicants also indicated within their last application, that they thought they were looking to save enough money for an alternative site or property. However, they now indicate that after 3 years paying for medical care for the elderly relative and their daughter's university fees, they are still unable to save a sufficient amount to relocate, and obtaining a typical mortgage would typically require a 25% deposit.

7.1.2 Staff comments: No detailed financial information has been submitted. It does appear that the applicant has invested financially into the current property since placing the mobile home on the land by providing outbuildings, landscaping and other improvements, such that savings may have been further used up.

7.1.3 It is not disputed that the applicant's financial circumstances are difficult, but these circumstances are shared by large numbers of people who are unemployed or in low-paid jobs and have care responsibilities. Staff consider that in the absence of (and even in the presence of) financial details, that this of itself, would not amount to very special circumstances to over-ride the identified harm to the green belt.

## 7.2 *Full time carer status*

7.2.1 The applicants application is in part to ensure that their mother in law is given 24 hour care, mainly from the applicant's wife as the full term carer, and since the previous permission, her health has deteriorated. Also they are unable due in part to his wife's mother's need for constant care, be able to move to other properties as rented home cannot be modified easily to cater for wheelchair users.

7.2.2 Staff comments: As mentioned in the previous application, staff consider that care responsibilities for elderly relatives or children can affect household finances and this is not an unusual situation. No evidence has been submitted that the applicant is on the Council house waiting list or that he was homeless before purchasing Chanlin. The applicant is currently working and it is understood that the applicant still owns the freehold of Chanlin and that he has purchased the mobile home outright such that he has no outgoings in terms of a mortgage or rent.

7.2.3 The Council recognise that the health circumstances of the applicant or anyone living at the site could be a material circumstance and can be taken into account. As mentioned by staff in the previous application, the person in need of care for medical reasons did not at the time of the 2007 application live at the application site. The applicant's mother in law moved to the application site after planning permission was refused and the appeal was dismissed in 2008. Therefore, even though the applicant's mother in law now appears to live full time at family's mobile home on the application site, staff do not consider that the health of the applicant's mother-in-law is a very special circumstance for the mobile home to remain at the application site for a further 5 years (In addition to the previously granted 3 years). If it was necessary, it would appear reasonable that the family could have moved into the mother-in-law's house who still has an address in Dagenham to provide the necessary 24-hour care or whether her house could now be sold to help solve the identified financial difficulties.

## 7.3. *Schooling*



- 7.3.1 The applicant states that a potential move to another accommodation elsewhere would appear detrimental to the children's education. Their eldest daughter goes to the University of Colchester and the other child recently started Secondary School.
- 7.3.2 Staff comments: Clearly it is in any child's interest to have the best environment in which to grow up and the application site provides a quiet, rural environment. Staff consider that all parents wish to provide the best for their children, disruption from home moves which can disrupt education are not situations which any parent would want for their children and it is generally recognised that removing children from school during a school year is not ideal.
- 7.3.3 However, moving house is quite common for families and disruption for children is not uncommon, the concerns raised could be associated with any family in the Borough, Staff do not consider that they amount to very special circumstances to allow inappropriate development in the green belt. In addition the applicant has been aware since 2008 that a move was needed and could time home moves to take account of exams and times which would have caused least upset to the children, such as during the summer holidays/half-term times.
- 7.3.4 The eldest daughter goes to the University of Colchester, it is not clear whether the daughter stays at the mobile home or is living near campus, but relocating to another accommodation is considered to not materially affect their child's studies from matters such as commuting distance.

#### 7.4 *Local support*

- 7.4.1 The applicant states that they provided letters of support by neighbours and wish to continue their support and that they have no letters of objection from the previous application, and it should be noted that under provisions of the Localism Agenda, and that the demonstrated local support should be taken into consideration as a very special circumstance.
- 7.4.2 Staff comment: Support from neighbouring occupiers does not form a material or special circumstance to allow development in the green belt contrary to policy.

### **8. Human Rights**

Staff are mindful of the Protocols under the Human Rights Act which require that a person has a right to a home and to privacy and that no one should unnecessarily interfere with these rights. In respect of this, the Planning System can interfere with a private individual's rights if there is a public right which would be affected. The Public have a right to have a Green Belt where development is restricted so that the public can benefit from its provision. It is considered that the public benefits of the provision and protection of the Green Belt outweighs the individual's' right to provide

themselves with a home which is clearly indicated in national and local policy as being inappropriate development. The Policy does not preclude an individual from having a home outside the Green Belt, elsewhere in the Borough.

## **9. Conclusions**

- 9.1 The main issues in this case are the principle of the development and its impact upon the character, appearance and openness of the Green Belt at this point. The proposed retention of the mobile home constitutes inappropriate development and Staff therefore consider, in line with DC45 that the proposal is prejudicial to the openness of the Green Belt. Staff further consider that the circumstances put forward by the applicant would not amount to the very special circumstances needed to justify an exception to Green Belt policy and that the proposal is, even for a temporary period, contrary to Policy DC45 of the LDF Core Strategy and Development Control Policies Development Plan Document and the NPPF.

### **IMPLICATIONS AND RISKS**

#### **Financial Implications and risks:**

None

#### **Legal Implications and risks:**

None

#### **Human Resource Implications:**

None

#### **Equalities and Social Inclusion Implications:**

Article 8 protects the private life of individuals against arbitrary interference by public authorities. Article 8 is a qualified right, so in certain circumstances public authorities can interfere with the private and family life of an individual.

These circumstances are set out in Article 8(2). Such interference must be proportionate, in accordance with law and necessary to protect the rights and freedoms of others. In the circumstances the protection of land within the Green Belt is considered to outweigh the qualified rights under Article 8 and it is considered to be proportionate. An application to retain the dwelling was dismissed by the secretary of state at appeal.

Section 149 of the Equalities Act 2010(EA) consists of a general equality duty, for the public sector and specifies duties which came into law on 10 September 2011, in England and 6 April, in Wales and consolidates and incorporates “positive

equalities duties” found in Section 71 of the Race Relations Act 1976. (RRA) The general duty of Section 149(EA) came into force on 5 April 2011.

Section 49 of the Disability Discrimination Act 1995 (DDA) and Section 76(A) of the Sexual Discrimination Act 1975(SDA) so that due regard must be had by the decision maker to specified equalities issues. The old duties under the RRA, DDA and SDA remain in force.

The duties under Section 149 of the EA do not require a particular outcome and what the decision making body decides to do once it has had the required regard to the duty is for the decision making body subject to the ordinary constraints of public and discrimination law including the Human Rights Act 1998.

Having considered the above duty and the Human Rights Act 1998 the Protection of amenity in public law outweighs any individual rights.

## **BACKGROUND PAPERS**

1. Application form, drawings and supporting statement received on 2nd September 2013.