
Appeal Decision

Site visit made on 17 October 2016

by Sukie Tamplin DipTP Pg Dip Arch Cons IHBC MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 October 2016

Appeal Ref: APP/Z3825/C/16/3155298

Brooklyn Farm, Bonnetts Lane, Ifield RH11 0NY

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Imperial Buildings Horley Ltd against an enforcement notice issued by Horsham District Council.
- The notice was issued on 1 July 2016.
- The breach of planning control as alleged in the notice is:
Without planning permission, the unauthorised use of the Land for the storage and parking of motor vehicles and the stationing of mess accommodation in association with the use of the Land for off-airport parking.
- The requirements of the notice are:
 - 5.1 Cease the use of the Land for the parking and stationing of motor vehicles.
 - 5.2 Remove all motor vehicles from the Land.
 - 5.3 Cease the use of all touring caravans being used as mess accommodation in association with the parking of motor vehicles.
 - 5.4 Remove from the Land all touring caravans being used as mess accommodation in association with the parking of motor vehicles.
 - 5.5 Make good the Land to restore it to its previous condition of grass.
- The period for compliance with the requirements is Three (3) calendar months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld.

Procedural matter and background

1. The appeal on ground (a) is in respect of part of the appeal site and corresponds with a roughly triangular field close to the entrance area subject of two planning applications refused in November 2011 and July 2016¹. I refer to this part of the appeal site in my decision as the 'triangular site'.
2. The site subject of the notice is located a short distance to the south of the perimeter of Gatwick Airport and within open countryside on the east side of Bonnetts Lane. It comprises the triangular field and 4 linked fields to the south and east. These are largely enclosed by mature trees alongside the field boundaries. Adjacent and to the south west is an area of airport parking/storage which is or was associated with a property known as Outaway.

¹ Planning application references: DC/15/1555 and DC/16/1240.

This land shares the access to the appeal site and has the benefit of a Lawful Development Certificate² (LDC) for off-airport parking.

3. The Council issued a Stop Notice on the same day, 1 July 2016, as the Enforcement Notice and thus at the time of my visit in October 2016 the active use of the land for parking and stationing of vehicles had ceased. Photographs of the use, dated 28 June 2016, have been submitted by the Council.
4. The appellant largely relies on the document entitled "*Planning, Design and Access Statement*" which was submitted to the Council in support of the applications for use of the triangular field. This document has not been updated to take account of the adoption of *Horsham District Planning Framework 2015* (HDPF) and thus the policies therein have to a large extent been superseded. The notice subject of this appeal was issued after the adoption of the HDPF and I must determine this appeal in the light of up to date policy.

Appeal on Ground (c)

5. This ground of appeal is that the development enforced against does not constitute a breach of planning control. The burden of proving relevant facts on this ground rests with the appellant, and the test of the evidence is the balance of probability.
6. The sole statement made by the appellant in respect of this ground of appeal is "the Council have accepted that parking can take place under temporary use right for 28 days a year".
7. Class B of Part 4 of Schedule 2 of *The Town and Country Planning (General Permitted Development) Order 2015* (the GPDO) says that "the use of any land for any purpose for not more than 28 days in total in any calendar year..." is permitted development and hence does not require an express grant of planning permission. The Council's evidence is that the use commenced about 28 April 2016. The Council undertook visits to the site or land close by on 10 May 2016³, 22 June 2016 and 28 June 2016. The appellant does not claim that between those visits the parking and storage use ceased therefore I find on the balance of probabilities the use of the land for off-airport parking/storage and associated ancillary uses occurred for more than 28 days. In these circumstances because the parameters for permitted development are exceeded, the use does not benefit from deemed consent.
8. Section 57(1) says that planning permission is required for any development of land other than in respect of specified exceptions including where such permission is granted by a development order. But for the reasons I have given the provisions of the GPDO cannot be relied upon in this appeal and there is no express grant of planning permission.
9. Section 171A (1)(a) of the TCPA says that the carrying out of development without the required planning permission constitutes a breach of planning control. Consequently the use of the land for off-airport parking/storage and associated uses is a breach of planning control and therefore the appeal on ground (c) fails.

² Lawful Development Certificate reference DC/13/0397

³ Also referred to as 16 May 2016

The appeal on Ground (a) (Triangular site only)

Main issues

10. The main issues in this appeal are the effects of the parking/storage on:

- the visual amenity and character of the countryside;
- the effect on highway safety; and
- the need for off-airport parking/storage;

Countryside

11. It is common ground that the appeal site lies in the open countryside but the appellant says that the site is secluded and has been visually blighted by the adjacent off-airport parking at Outaway. As noted above this parking has been granted a LDC, and subsequently perimeter fencing, lighting and hard-surfacing has been permitted by the Council.
12. I saw the south-western perimeter of the triangular site is bounded by the LDC parking and there are no natural physical features that provide visual separation. The field is set back from Bonnetts Lane and thus is not visible to passing traffic while the north-eastern boundary is demarcated by deciduous trees. Thus I acknowledge that the site is relatively secluded and more crucially is seen in the context of lawful parking/storage on the adjacent site.
13. However I do not agree that the evidence demonstrates that the triangular site is a 'brown-field site' or should be categorised as 'previously developed land'. Nor do I give weight to the existence of storage and agricultural buildings within the main yard at Brooklyn Farm because such buildings, albeit utilitarian in appearance, are essentially agricultural in character.
14. Thus looking at the wider context, it seems to me that the site is part of a swathe of agricultural land and uses to the east of Bonnets Lane. Hence the extension of commercial parking and storage onto this land would be contrary to the aims of HDPF Policy 26. This says that the use is not appropriate in this location because it does not support the needs of agriculture or other development or uses that require a countryside location; neither is it sustainable as it will lead to a high intensity of vehicular use. Moreover, from the photographic evidence before me and from what I saw, the effect of the use is both physically damaging and introduces an alien feature into the countryside. Thus because it exacerbates the inappropriate use of countryside, the effect is seriously harmful and this weighs heavily against permission.

Highway safety

15. The access is shared with a residential property, Outaway and the LDC airport parking site. I also saw that the access crosses a yard that appears to be used as a scrap yard or for the storage of various vehicles in a poor state of repair. It is not clear whether or not that use is lawful but it is likely to generate some vehicular traffic. In addition the appellant says that the access is used in association with motorcycle scrambling elsewhere on the Brooklyn Farm holding. Thus there are five probably unrelated users of the narrow access that leads to Bonnetts Lane which is a classified road and it is estimated that the triangular site alone accommodates up to about 200 vehicles. The LDC site is substantially larger and probably accommodates in excess of about 500

vehicles, although no figure has been given in the evidence. Thus the number of vehicles sharing the access would be of the order of several hundred cars.

16. The junction with Bonnetts Lane has poor visibility and the bell mouth of the lane is of inadequate width to allow two vehicles to pass. The appellant has suggested a passing place could be provided part way along the lane and also says that the relocation of the hedge to the north and the retention of a convex mirror could be required by a planning condition. However it seems that the appellant only has control of about 40m of the frontage to the north and this is well short of the visibility standard of about 120m for this road which is subject to a 40mph speed limit. Moreover there is no evidence that the appellant has sufficient land to construct a widened bell mouth at the junction with Bonnetts Lane.
17. In these circumstances the effect of the additional traffic generated by the development is to add to the hazards faced by highway users of this part of Bonnetts Lane by reason of the significantly increased use of the substandard access. Hence the development conflicts with the aims of HDPF Policy 40 which seeks amongst other matters to ensure that access arrangements minimise conflicts and are safe.

Need

18. As I have noted above the appellant relies on superseded policies and thus his argument that the local development plan is out of date has no weight in this appeal.
19. HDPF Policy 41 says, amongst other matters, that "planning permission will not be granted for off-airport parking facilities related to Gatwick Airport unless a need can be demonstrated and all realistic alternatives have been examined". The Council also says that Gatwick Airport Limited (GAL) objected to the proposed parking on the triangular site and said that predicted airport parking can be accommodated within the airport.
20. The appellant has provided no counter evidence in terms of need other than a general assertion and reference to 3 appeal decisions. I note that these are in adjacent districts and thus are the subject of a different policy context and thus are not comparable to the issues before me.
21. The site is within the Gatwick Safeguarding Area and hence, although the Government's preferred option is the expansion of Heathrow, in the absence of a final decision, the site may be required for airport development if permission is granted for a second runway.
22. Whilst the possibility of Gatwick airport expansion does not in itself have significant weight in this appeal, in the absence of any demonstrable evidence of need and Government's preference for Heathrow, this main issue also weighs heavily against permission.

Other matters and conclusion on ground (a)

23. The appellant has argued under ground (f) that consideration should be given to a periodic limited permission of 3 months in any calendar year. This suggestion is a ground (a) matter because what he is seeking is a planning permission. However any such periodic permission would neither overcome the

harm of larger numbers of cars exiting onto Bonnetts Lane nor avoid the damage to the environment caused by car-parking/storage.

24. The appellant says, relying on the National Planning Policy Framework that the use amounts to sustainable development. I do not agree because the development has a significantly harmful effect on the aims of up-to-date rural countryside policy and on highway safety. This harm is not outweighed by the claimed benefits of additional parking provision benefits because it has not been demonstrated that there is a need for the development. Consequently the ground (a) appeal does not succeed.

The appeal on Ground (f)

25. The appellant says that because the use benefits from temporary use rights by reason of the provisions of the GPDO, a 3 month-a-year permission would be proportionate and remedy the injury to amenity. He also suggests that this limited periodic use is appropriate in view of the ongoing uncertainty about airport expansion and the ongoing un-met need for off-airport parking
26. A periodic permission is not a lesser step, because if would grant planning permission which I have already considered under ground (a) and rejected as harmful. Moreover this suggested alternative would relate to the whole site of about 2000 cars and thus would be even more harmful in terms of highway safety and the effect on the environment.
27. Consequently the appeal on Ground (f) also fails.

Formal Decision

28. The appeal is dismissed, the enforcement notice is upheld, and planning permission is refused for the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Sukie Tamplin

INSPECTOR