
Appeal Decisions

Site visit made on 21 March 2017

by Andrew R Hammond MSc MA CEng MIET MRTPI

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

Decision date: 24 March 2017

Appeal A Ref: APP/D0121/C/16/3158263

Appeal B Ref: APP/D0121/C/16/3158264

Land at Barrow Fields, Dial Lane, Felton BS40 9YD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr G L Wedlake and Appeal B is made by Miss B G Mitchell against an enforcement notice issued by North Somerset Council.
 - The enforcement notice, numbered 2016/0301, was issued on 10 August 2016
 - The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agriculture to a mixed use of agriculture and the parking of vehicles unconnected with the agricultural use of the land.
 - The requirements of the notice are
 - Cease the use of the land for the parking of vehicles unconnected with the agricultural use;
 - Remove all vehicles from the land.
 - The period for compliance with the requirements is 7 days from when the notice takes effect.
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) & (g) of the Town and Country Planning Act 1990 as amended.
 - Appeal B is proceeding on the grounds set out in section 174(2)(f) & (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.
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Decision Appeal A

1. The appeal is allowed on ground (f), and the enforcement notice is varied by the deletion of 'Remove all vehicles from the land' and the substitution of the following requirement 'Remove all vehicles not associated with agriculture'. Subject to this variation the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Decision Appeal B

2. The appeal is allowed on ground (f), and the enforcement notice is varied by the deletion of 'Remove all vehicles from the land' and the substitution of the following requirement 'Remove all vehicles not associated with agriculture'. Subject to this variation the enforcement notice is upheld.

Application for costs

3. An application for costs was made by North Somerset Council against Mr G L Wedlake and Miss B G Mitchell. This application is the subject of a separate Decision.

Appeal A Ground (a)

Main Issue

4. The main issue in this appeal is whether the use enforced against is inappropriate development in the Green Belt and if so whether the harm by virtue of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to constitute the very special circumstances necessary to justify the development.

Reasons

5. The appellant has confirmed that the parking at the appeal site is airport parking associated with Bristol Airport. There is no dispute that the appeal site lies within the Bristol and Bath Green Belt.
6. As detailed in the National Planning Policy Framework (the Framework) the Government attaches great importance to Green Belts, the fundamental aim of Green Belt policy being to prevent urban sprawl by keeping land permanently open, the essential characteristics of Green Belts are their openness and their permanence.

Inappropriateness

7. At paragraph 87 the Framework re-iterates previous Green Belt Policy that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
8. Paragraphs 89 and 90 set out forms of development which are not inappropriate in the Green Belt. The appellant does not plead that the use of the land for parking is not inappropriate development and the use is therefore harmful to the Green Belt by definition.
9. North Somerset adopted Development Management Policies (DMP) Policy DM12 follows the Framework and states that inappropriate development is, by definition, harmful to the Green Belt and will not be approved in very special circumstances.

Openness of the Green Belt

10. The appellant suggests that the parking is on an enclosed area of land and, as the cars parked are not visible from the public domain, the development is not harmful to the openness of the Green Belt.
11. In response the Council has drawn attention to the judgement in *Timmins & Anor v Gedling Borough Council* (2014) EWHC 654 which drew a clear conceptual distinction between openness and visual impact.
12. However a more recent judgement, in *Turner v SSCLG & East Dorset Council* (2016) EWHC Civ 466 found that in the former case the judge had gone too far in stating that there is a clear conceptual distinction and recognised that the question of visual impact is implicitly part of the concept of openness of the Green Belt and the visual dimension of the Green Belt is an important part of the point of designating land as Green Belt.
13. Nevertheless the latter judgement, at paragraph 25, confirmed that the openness of the Green Belt has a spacial as well as a visual aspect. Despite not

being readily visible from the public domain the parking of cars on the appeal site does affect the openness of the Green Belt with regard to the spacial aspect. There were a considerable number of cars parked at the appeal site at the time of the site visit and there is the potential for several hundred vehicles to be parked there at any one time. There is clearly a significant encroachment into the countryside and harm to openness despite a lack of visual intrusion.

Other Harm

14. The Council contend that the use of the appeal site for airport parking undermines the Airport Surface Access Strategy for Bristol Airport in that the use of such sites dilutes the attempts by the Council and Bristol Airport to promote enhanced access by public transport.
15. DMP Policy DM30: *Off-airport car parking*, aims to appropriately manage the demand for travel by car by ensuring that the provision of car parks is balanced with the need to promote wider travel choices and to protect the Green Belt from off-airport car parking.
16. The provision of unplanned parking, especially in the Green Belt, is outwith an integrated approach and distorts mechanisms to influence passengers' choice of means of accessing the airport in conflict with sustainability objectives of reducing travel by private car.
17. The use is therefore in conflict with DMP Policy DM30 and one of the core planning principles of the Framework, *actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable*.

Other Considerations

18. The Council acknowledge that the reference to 'vehicle reception facility', 'office' and 'public house' in their statement is incorrect and the result of a clerical error. For the avoidance of doubt the appeal has been determined on the basis of the development as alleged in the enforcement notice, namely the change of use of the land from agriculture to a mixed use of agriculture and the parking of vehicles unconnected with the agricultural use of the land.
19. The appellant claims that the position of the Council with regard to vehicle parking in the Green Belt is dependent upon which operator is involved. The appellant has not referred to any example of permission being granted, other than expansion of pre-existing car parks at the airport. In any event, each appeal must be considered on its individual merits, as is the case with the current appeal.
20. In support of the appeal, the appellant pleads that increasing numbers of passengers are consistently using private transport as their preferred means of travelling to the airport and that numbers are increasing as the airport expands its operations in accordance with national policy.
21. In contrast, the appellant claims that the availability of public transport is insufficient and that it does not recognise the actual catchment area of passenger demand. It is suggested that this is evidenced by the large number of cars parked on roads in the vicinity of the airport and the use by local enterprises of the '28 day permitted Development Rights' to provide the necessary level of parking.

22. In support of these claims, the appellant quotes Civil Aviation Authority data; Bristol Airport's publication 'Your Airport' from Winter 2014/2015; and bus and coach timetables.
23. It is inevitable that a substantial number of passengers will always wish to travel to the airport by private car, some of necessity, and that, as the airport expands the number will grow.
24. The Bristol Airport Surface Access Strategy provides for a phased increase in public transport services and parking provision at the airport. The re-phasing of seasonal low cost parking recently approved being a variation of the overall strategy in recognition of growth in low cost flights.
25. Whilst the meeting of a recognised existing demand and the introduction of competition in the provision of airport parking carries some weight in support of the appeal, that weight is less than substantial. Additional availability of parking would reduce incentives to use public transport, thereby further increasing demand.
26. The appellant further pleads that the sustainability of the appeal site being in close proximity to the airport and catering for those for whom it is not practical to travel by public transport is a material consideration.
27. The Framework makes clear that there are three dimensions to sustainability, including an environmental role "*contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy*".
28. Given the importance that the Government attaches to the protection of the Green Belt in particular and the intrinsic character and beauty of the countryside (Core Planning Principle of the Framework), the use of the appeal site for airport parking manifestly fails to meet the environmental role in that it fails to protect or enhance the natural environment.
29. The location of the appeal site in close proximity adds very little weight in favour of the appeal.

Overall Green Belt Balance

30. 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. (Framework paragraph 79).
31. At paragraphs 87 and 88 the Framework states that substantial weight should be given to any harm to the Green Belt and that the 'very special circumstances' necessary to justify inappropriate development 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.
32. The appellant does not dispute that the use of the appeal site for airport parking constitutes inappropriate development but has put forward considerations in favour of the development which are claimed to be very special circumstances.

33. It is well established that 'very special circumstances' must indeed be very special and must result from the harm to the Green Belt being clearly outweighed by other considerations.
34. The other considerations put forward by the appellant in support of the appeal could apply to any number of sites within the Bristol and Bath Green Belt. Furthermore, whilst they carry some weight in support of the appeal, that weight, in total, is less than substantial and cannot, therefore, outweigh the substantial harm to the Green Belt.
35. For the reasons given above I conclude that Appeal A on Ground (a) should not succeed. I shall refuse to grant planning permission on the deemed application.

Both Appeals Ground (f)

36. Under ground (f) the appellants plead that the requirement to remove all vehicles from the land is excessive in that vehicles such as those associated with agricultural use could be parked on the land.
37. That is indeed the case and the Council accept that it is so and that the enforcement notice should be amended accordingly. No injustice would be caused by such an amendment.
38. For the reasons given above I conclude that the requirements are excessive, and I am varying the enforcement notice accordingly, prior to upholding it. The appeals under ground (f) succeed to that extent.

Both Appeals Ground (g)

39. Under ground (g) the appellants plead that seven days would be insufficient time to clear the site of all vehicles without prejudice to the parking business, particularly given that a number of advance bookings have been arranged.
40. The use of the land causes substantial harm to the Green Belt and is unauthorised. There is no suggestion that it would not be physically possible to remove the cars. The fact that the appellants' business could potentially be harmed by complying with the requirements within seven days is not justification for increasing the compliance period.
41. The appeals under ground (g) fail.

Overall Conclusion

42. For the reasons stated above and taking account of all material considerations the appeals on ground (f) succeed to the extent that the requirements of the notice are varied. Otherwise the appeals fail and the enforcement notice is upheld.

Andrew Hammond

Inspector