
Appeal Decisions

Site visit made on 18 April 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 5 May 2017

Appeal A: APP/P0119/C/17/3166413

Land on the West Side of The Coach House, Bristol Road, Hambrook.

- 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 Mr T Chandrasekhar against an enforcement notice issued by South Gloucestershire Council.
- The enforcement notice, numbered COM/15/0858/OD/1, was issued on 5 December 2016.
- The breach of planning control as alleged in the notice is change of use of agricultural land (Sui Generis) to a car park without the benefit of planning permission.
- The requirements of the notice are:
 - 1) Remove the hardstanding from the land as indicated by the red line on the attached site plan (for identification purposes only) and within the attached photograph annexed figure 1.
 - 2) Permanently cease using the land for the parking of vehicles and associated activities.
 - 3) Return the land to its former condition prior to the breach of planning control taking place.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

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

Appeal B: APP/P0119/W/16/3164708

The Coach House, Bristol Road, Hambrook, South Gloucestershire BS16 1RY.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr T Chandrasekhar against the decision of South Gloucestershire Council.
- The application Ref PT16/0421/F, dated 29 January 2016, was refused by notice dated 9 November 2016.
- The development proposed is change of use of land from agricultural to carpark in association with The Coach house guesthouse.

Summary Decision: The appeal is dismissed.

Appeal A on ground (a) and Appeal B (s78 appeal)

Procedural Matters

1. The Council's description of development as contained in their decision notice more accurately reflects the appeal proposal. I have therefore used this description in my decision.
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2. The applicant's name as shown on the application form is incomplete. I have therefore used the appellant's name as indicated on the appeal form.
3. The car parking area subject of Appeal B differs from the car parking area currently in situ and subject of the enforcement notice in that it is proposed to reduce the size of the parking area and alter the surfacing materials.

Site Description

4. The Coach House, now a guesthouse was formerly the coach house to the adjacent Hambrook Grove House, a Grade II listed building. The appeal site is located to the west of The Coach House and Hambrook Grove House and comprises part of an agricultural field which historically formed part of the parkland setting to Hambrook Grove House.
5. The appeal site lies in designated Green Belt within the Hambrook Conservation Area (HCA).

Main Issues

6. Accordingly, the main issues are:
 - i) Whether the development represents inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
 - ii) The effect of the development on the openness of the Green Belt;
 - iii) Whether the development preserves the setting of the curtilage listed building The Coach House and Hambrook Grove House and whether the development preserves or enhances the character and appearance of the Hambrook Conservation Area (HCA); and
 - iv) If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

7. The appeal development comprises the change of use of agricultural land to a use for the parking of vehicles.
8. Policy CS5 of the South Gloucestershire Local Plan: Core Strategy 2006-2027 (2013) (CS) states that development in the Green Belt will need to comply with the provisions in the Framework or relevant local plan policies in the Core Strategy.
9. The Framework states that inappropriate development is harmful to the Green Belt. All proposals for development in the Green Belt should be treated as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions in either paragraph 89 or 90 of the Framework. Proposals comprising material changes of use do not come within either of these

paragraphs, and thus are inappropriate development. As the appeal development involves the material change of use of the site, it is therefore inappropriate development.

Openness

10. The Framework advises that 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. Paragraph 80 identifies that the Green Belt has five purposes including to assist in safeguarding the countryside from encroachment.
11. Openness in a Green Belt context can be taken to mean an absence of visible development or manifestation of use. Albeit the appellant proposes to reduce the area available for parking and the proposed use of reinforced grass, the replacement of agricultural land by a hard surfaced area and its use for the parking of motor vehicles results in a loss of openness which is harmful to the Green Belt. Taking into account that openness is an essential characteristic of Green Belts, the harm that would be caused, albeit minimal, carries significant weight. Thus, the use as a car park conflicts with CS Policies CS5 and CS34 which amongst other things, seek to protect the designated Green Belt from inappropriate development.

Effect on the setting of a listed building and the character and appearance of the HCA

12. Section 66(1) of the Act¹ requires that the decision maker, "in considering whether to grant planning permission for development which affects a listed building or its setting, shall have special regard to the desirability of preserving the building or its setting."
13. The Framework also finds that the significance of a heritage asset can be harmed or lost through development within its setting. The Framework defines the setting of a heritage asset as 'the surroundings in which a heritage asset is experienced' and confirms that 'significance derives not only from a heritage asset's physical presence but also from its setting'.
14. Albeit that ownership of The Coach House is now severed from Hambrook Grove House, the evidence indicates that the appeal site forms part of the parkland setting of Hambrook Grove House and thus has an historic relationship with this property. As such, although outside of the curtilage of Hambrook Grove House and The Coach House, I consider that the appeal site is within, and makes an important contribution to, the setting of these heritage assets.
15. Although at a distance from Hambrook Grove House, the parking of vehicles on this area of open field adjacent to The Coach House fails to preserve the setting of these heritage assets and is thereby harmful to their significance.
16. Section 72(1) of the Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The open rural nature of the appeal site with wider countryside views is an important feature of this particular part of the HCA. Despite the amount of screening afforded by existing vegetation the car park is visible from a number

¹ The Planning (Listed Buildings and Conservation Areas) Act 1990

of surrounding properties. The use of the appeal site for a car park alters the quiet rural character of this part of the field to a harmful degree. The use of the land as a car park in this location neither preserves nor enhances the character or appearance of the HCA.

17. The harm caused to the setting of the listed building and the character or appearance of the HCA amounts to less than substantial harm. The contribution of the appeal development to the continued use of this heritage asset, whilst of public benefit, does not outweigh the harm caused by the development in this location, a matter which I give considerable importance and weight. Even if the size of the car parking area is reduced or resurfaced in different materials these steps would not overcome the identified harm.
18. I conclude that the use of the land as a car park fails to preserve the setting of the curtilage listed building The Coach House and the listed building Hambrook Grove House. In addition, it neither preserves nor enhances the character or appearance of the HCA. Consequently, there is conflict with Policies L12 and L13 of the South Gloucestershire Local Plan (2006) and Policy CS9 of the CS which amongst other things state that development including alterations or additions affecting a listed building or its setting will not be permitted unless the building and its setting would be preserved.

Other Considerations

19. The appellant contends that there is an economic need for the development to ensure the successful future operation of the hotel. The hotel has experienced an increase in business during 2016 and has a desire to achieve a full occupancy rate of 80% of the whole annual calendar.
20. At present there are ten parking spaces serving this fifteen bedroom hotel. The development provides an additional eight parking spaces. I accept that at times of full occupancy and changeover together with staff and owner/occupiers parking the existing authorised car parking may prove inadequate. However, the appellant has not given sufficient information for example details of the number of past and future bookings to show how often this may be the case. In addition, I have been provided with no details regarding the number of parking spaces typically occupied by staff and owners/occupiers. Therefore, based on the evidence I cannot be certain that the appellant's need for additional car parking is sufficient to justify the identified harm. I therefore attach moderate weight to these considerations.
21. I have had regard to the appellant's comments regarding double yellow lines in Bristol Road. Whilst parking is restricted in places along Bristol Road I noted at my site visit that there is some on-street parking available on Bristol Road to the north east of the appeal site. Accordingly, I attach limited weight to this matter.
22. I note that there has been two occasions where due to parking on the drive, access by emergency vehicles to The Coach House has been prevented. The Council considers that the drive is of sufficient width to allow safe passage for larger vehicles and I note that the Highway Officer raised no objection in this regard. Moreover, the hotel can require any vehicle obstructing the access drive to move. I therefore attach limited weight to this consideration.

23. I have identified that the use of the land for a car park is inappropriate development in the Green Belt which is harmful by definition. In addition, there is an, albeit limited, loss of openness. Also, the development fails to preserve the setting of the curtilage listed building The Coach House and the listed building Hambrook Grove House and neither preserves nor enhances the character or appearance of the HCA. These matters carry substantial weight.
24. In my view the appellant has not shown that the additional car parking in this location is necessary for the future economic success of the business or that it is necessary in the interest of health and safety. Furthermore, the public benefit of the appeal development to the continued use of this heritage asset does not outweigh the identified harm.
25. I find these other considerations are insufficient to clearly outweigh the totality of the harm which is the test they have to meet. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.

Conclusion

26. For the above reasons, and with regard to all other matters raised, I conclude that the appeal on ground (a) in Appeal A, and Appeal B, fail and I refuse to grant planning permission on the deemed application.

Appeal A on ground (f)

27. The ground of appeal is that the steps required by the notice to be taken or the activities required by the notice to cease, exceed what is necessary to achieve the purpose. The purposes of an enforcement notice are set out in section 173(4) of the Act and are to remedy the breach of planning control (s173(4)(a)) or to remedy injury to amenity (s173(4)(b)). Since the notice requires the unauthorised use to cease, the removal of the hardstanding and the land to be returned to its former condition before the breach of planning control took place, the purpose of the notice is clearly to remedy the breach.
28. The appellant considers that the requirements of the notice are excessive because the hardstanding could be top soiled and seeded over which would return the land to a grass field and improve the drainage from previous clay soil. Case law establishes that it is not excessive to require the removal of all items introduced to facilitate the unauthorised use as part of the requirements of the notice and to require the land to be restored to its condition before the breach took place. Leaving the hardstanding in place would not achieve the purpose of the notice.
29. I conclude that the steps are not excessive to remedy the breach of planning control and the appeal on ground (f) fails.

Formal Decision

30. Appeal A is dismissed and the enforcement notice is upheld.
31. Appeal B is dismissed.

Elizabeth Jones

INSPECTOR