

Appeal Decision

Site visit made on 27 March 2017

by Chris Forreth BSc(Hons) DipTP MRTPI

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

Decision date: 18 May 2017

Appeal Ref: APP/T3725/W/3165660

The Falcon Inn, Birmingham Road, Haseley, Warwick, Warwickshire CV35 7HA

- 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 Marston's PLC against the decision of Warwick District Council.
 - The application Ref W/16/1563, dated 24 August 2016, was refused by notice dated 16 November 2016.
 - The development proposed is described on the application forms as the erection of a car park lighting scheme.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal application was described on the application forms as the erection of a car park lighting scheme. The Council amended the description of development to the erection of five freestanding 1.5 metre high floodlights in car park, and this has been used on the Appellants appeal form. Given that this description reflects the development before me, I have determined the appeal on this basis.
3. The Council's decision notice refers to a number of draft policies from the emerging Warwick District Local Plan 2011-2029 (publication draft). However, from the information before me the examination of the emerging plan has yet to be completed, and policies within it could be subject to change. I can therefore afford only limited weight to these policies.

Main Issues

4. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt;
 - (ii) the effect on the openness of the Green Belt;
 - (iii) the effect on the rural character and appearance of the area; and
 - (iv) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
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Reasons

Whether the proposal would be inappropriate development in the Green Belt

5. Paragraph 79 of the National Planning Policy Framework (the Framework) outlines the fundamental aim of Green Belt policy which is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. The Framework, at paragraphs 89 and 90, sets out the categories of development which may be regarded as not inappropriate in the Green Belt.
6. The Council have referred to the construction of the lighting columns as being an engineering operation. However, according to s336 of the 1990 Act, the term 'building' refers to any structure or erection. Therefore, this would apply to the lighting columns and therefore the not inappropriate development exemption for engineering operations (at paragraph 90 of the Framework) does not apply.
7. The Framework, at paragraph 89, states that new buildings within the Green Belt are inappropriate unless, amongst other things, they represent the partial or complete re-development of previously developed sites (excluding temporary buildings) which would not have a greater impact on the openness of the Green Belt, and the purpose of including land within it, than the existing development (sixth bullet point).
8. As the car park to the public house can be considered to be a previously developed site it follows that in order to determine whether it would be inappropriate development it is necessary to consider whether or not the proposal would have a greater impact on openness than the existing development.

Openness of the Green Belt

9. The five lighting columns would be sited at the rear of the carpark with four of them adjacent to a timber fence which is in the region of 1.8 metres high. The fifth light would be located near to the south eastern corner of the car park close to the public footpath.
10. Whilst the size and size of the lighting columns would not be prominent, they would have an impact on the openness of the Green Belt by introducing additional structures. In saying that, I acknowledge that the level of harm to the openness of the Green Belt is very small.
11. For the above reasons, given the loss of openness to the Green Belt, it follows that in accordance with paragraph 89 of the Framework the proposal would be inappropriate development and would impact on the Green Belt purpose of safeguarding the countryside from encroachment.

Character and appearance

12. The Council have also raised concern over the modern design of the lighting columns and that they would have an unduly urbanising effect both in terms of their physical presence and the extent of illumination.
13. In respect of the design of the light columns and fittings four of these would be set against the backdrop of the existing timber fence. Whilst they are of a

modern design, their physical appearance would not have a significant impact on the rural character and appearance of the area given their limited height.

14. In respect of the light emitted, it is significant to note that this would be localised to the car park and directed downwards. As such I consider that the effect of the lighting on the wider area would be very limited and not harmful to the rural character and appearance of the area.
15. For the above reasons, the proposed lighting would not harm the rural character and appearance of the area and would accord with Policies DP1 and DP3 of the Warwick District Local Plan 1996-2011 (2007).

Green Belt balance

16. Paragraph 87 of the Framework sets out the general presumption against inappropriate development within the Green Belt. It states that such development should not be approved except in very special circumstances. Very special circumstances 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.
17. I have concluded that the proposal would be inappropriate development (as a result of the adverse effect on openness) and would therefore, by definition, be harmful to the Green Belt. Whilst the level of harm is very small, it would still nevertheless weigh against the development.
18. The Appellant has advanced health and safety reasons as a very special circumstance in that the car park is poorly lit and there have been verbal reports of cars bumping into one another and cars being scratched. It is also stated that customers have also lost their footing in the car park. However, the area of the car park which would be lit by the proposed lights is relatively flat with little or no obstruction. It is also unclear whether sufficient illumination to this area would be given by the other lights shown on the application drawings.
19. In addition to the above, a copy of an accident record has been provided which related to a slip on a step outside the overnight accommodation adjacent to the car park and lack of lighting is cited as a possible cause. However, this area is some distance from the appeal proposal and would be no doubt lit by the other lighting which is shown on the application drawings which the Council have considered can be erected without planning permission. I therefore give this very little weight.
20. In considering the substantial weight given to Green Belt, the benefit of additional lighting does not clearly outweigh the harm to the Green Belt. Therefore there are no very special circumstances to justify the proposal and the development would conflict with the Framework.

Conclusion

21. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR