
Appeal Decision

Hearing Held on 22 March 2018

Site visit made on 22 March 2018

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: Wednesday, 23 May 2018

Appeal Ref: APP/M3645/W/17/3181430

The Oak Tree, Effingham Road, Burstow RH6 9RP

- 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 R Mathers against the decision of Tandridge District Council.
 - The application Ref TA/2016/1966, dated 16 November 2016, was refused by notice dated 8 February 2017.
 - The development is the change of use of lawful dwelling house to a mixed C3 (dwelling house) and C1 (B&B) use with ancillary car parking, and erection of frontage fencing.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of lawful dwelling house to a mixed C3 (dwelling house) and C1 (B&B) use with ancillary car parking, and erection of frontage fencing at The Oak Tree, Effingham Road, Burstow RH6 9RP in accordance with the terms of the application, Ref TA/2016/1966, dated 16 November 2016, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved drawings: Location Plan, 1:1250; Block Plan, 1:500; Existing ground floor plan, OT-01E; Proposed elevation (fence)-NE, OT-02P.
 - 2) The area of the site to the west of the timber picket fence and 7-bar metal gate which runs north-south across the site shall be used only for the parking of cars of guests staying at the Oak Tree Bed and Breakfast for at least one night during the period in which their cars are parked in that area.

Main Issues

2. The Council made a 'split-decision' on the planning application the subject of this appeal. It granted planning permission for the change of use of the building from a dwelling house to a C3 (dwelling house) and C1 (bed and breakfast) mixed use, together with the frontage fencing. The building is in use for that purpose. It refused permission for the continued use of the land to the north-west of the main building as it considered this to be long-stay airport parking (*sui generis*).
 3. On this basis, my determination focuses on the land for parking. Given the location of the site in the Green Belt and outside any identified settlement boundary, the main issues are therefore:
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- i) whether the proposal is inappropriate development in the Green Belt;
- ii) its effect on the openness of the Green Belt;
- iii) whether the proposal meets sustainable transport objectives; and,
- iv) if it is 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.

Reasons

Whether inappropriate development

4. Policy DP10 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (LP2), which is broadly consistent with the National Planning Policy Framework (the Framework), says that planning permission will be refused for inappropriate development in the Green Belt. LP2 policy DP13 lists development which is not inappropriate in the Green Belt. It also refers to paragraph 90 of the Framework, which sets out a list of other development which is not inappropriate in the Green Belt.
5. I acknowledge the appellant's claim that the parking area does not involve a change of use, and that this element of the proposal should not therefore require planning permission. However, as the description of development for which permission is sought includes this, it forms part of my considerations, having regard to the development plan as required under Section 38(6) of the Planning and Compulsory Purchase Act 2004. Whether the parking area requires planning permission or not, is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal.
6. Turning to the exceptions to inappropriate development set out in LP2 policy DP13, most concern buildings. They do not apply to the material change in the use of land and do not therefore apply to this development. Of the other exceptions, the development does not involve redevelopment; the operational development amounts to a short length of a low fence. There is no evidence that the building fell into disuse prior to this development; on the contrary it was used as a dwelling, part of which use continues. The re-use exception cannot therefore apply to this development. Nor does the development fall under the exceptions given in paragraph 90 of the Framework.
7. I therefore conclude that the development the subject of this appeal is inappropriate in the Green Belt. The Framework explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It advises, at paragraph 88, that substantial weight should be given to any harm to the Green Belt.

Effect on openness

8. The fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open. In terms of openness, the land to the west of the B&B building is used for parking cars. There are three

- distinct, parking areas. Immediately beside the building is an area open to the road, used by guests staying overnight in the B&B, who remove their car directly following their stay. This area is also used in connection with the C3 element of the building. It provides space for 4 guest cars and 2 cars for the dwelling.
9. Beyond that open area is a large car-park which has been divided by a fence. The first section of this, beside the open parking area, is the contentious part of this development. It has capacity for 20 cars, but is commonly occupied by 6 to 10. The other section is leased by a car dealership for the parking of their staff cars, and is outside the red-line site boundary. Both these areas have an informal character, with an unmetalled surface, no paint markings and no lighting or signage.
 10. The Council raises no objection to the open area of parking, the area directly beside the B&B. Its concern is that the cars parked in the first section of the larger area remain in place for sustained periods, including overnight, which harms the openness of the Green Belt.
 11. However, both parties agree that all 3 of these areas of land have been used for parking for the last 10 years. Moreover, the appellant has submitted evidence which demonstrates that all 3 areas have been used for parking for almost fifty years. Indeed, I heard from the Parish Council that until this development, the car dealership also rented the same section of the car-park now in dispute, before it retreated to the now fenced-off section. This suggests that the effect on openness from the parking in this development is little different from the effect when the section was in use by the car dealership.
 12. The Council makes the point that the guest cars in the first section remain in place longer than the staff cars in the previous use, including overnight, and that this is incompatible with the fundamental aim of the Green Belt, to keep land permanently open. However, the Parish Council, who owns the car-park land, indicated at the Hearing that cars were often parked overnight in the car-park, including over the weekends, before this development.
 13. The last use of the first section was for parking cars, and it is uncontested, was so for at least the last 10 years, and on the evidence, for the last half-a-century. The section is bounded to both flanks by car-parking areas, and to its north, by a busy road. These contextual and historical factors have a significant bearing on the openness of the Green Belt in so far as it may be affected by the development.
 14. I accept the Council's point that the frequency of overnight parking may be greater in this development than in the last use of this section of the land. Though having regard to the greater area of parking when both sections were under one lease, I doubt the effect on openness would be materially different or visually discernible. Moreover, there is no evidence that the last use had a planning restriction precluding overnight parking.
 15. Given the informality of the parking areas, the limited extent of the contentious section, the adjoining land used for parking and the evidence that cars previously parked there overnight, and without any substantive evidence to the contrary, I am unable to conclude that the development has any greater effect on Green Belt openness than the last use, to which the Council does not object.

I therefore conclude that there is no harm to the openness of the Green Belt from the development.

Sustainable transport objectives

16. Policy CSP1 of the Tandridge District Core Strategy 2008 (CS) promotes sustainable patterns of travel, prioritising development in the built-up area or on previously developed land where there is a choice of mode of transport. CS policy CSP16 concerns aviation development. It says that new off-airport parking will be considered in the light of Green Belt policy and the need to minimise the use of the private car to travel to the airport.
17. The Council considers that the parking in the first section of the large car-park is not ancillary to the B&B use of the site because of the number of vehicles parked there, and the length of their stay, where their drivers travel to Gatwick Airport to go on trips while leaving their cars in the car-park.
18. However, the appellant controls access to the first section of parking which he restricts to guests of the B&B, of whom, on average, only around half park there. Guests choose where they park, and once parked, their cars are not manoeuvred, double-parked, stacked or jockeyed. Furthermore, the 3-bedroom capacity of the B&B and the size of the parking area limit the number of cars that can be parked there to around two thirds of its guests, and is typically 6 to 10 cars.
19. While there are no figures across all seasons and some of the appellant's figures appear contradictory, the bookings for February 2018 show that the parking area generates around a quarter of the B&B's revenue. I appreciate that this proportion may fluctuate, however, in the context of the B&B use where only guests can park there, and given its relatively modest size and its informal nature, I do not consider that the development amounts to an off-airport parking use. The parking use is tied to the mixed C3 and C1 use on the site, and it is by no means the primary function.
20. There are bus-stops around 250m from the site served by buses which, with a change, reach the airport within about half an hour. While there is no overnight and Sunday service, when many guests may need to travel, the site is well served during the day. The availability of public transport close-by provides a practical alternative to the private car and minimises its use for guests travelling to the airport.
21. I note the reference to an appeal¹ dismissed at Bridges Wood in November 2016. However, the previous use of that parking area was a mushroom farm with a part-implemented permission for use class B8 (storage and distribution) whereas the previous use of the car-park in this appeal was a car-park. That case concerned around 13,000m² of parking compared to the area in this case of around 500m². More significantly, unlike this proposal the use was not part of a C3 and C1 mixed use development. The nature of the uses and their scales are so different that no meaningful parallels can be drawn between these cases.
22. I acknowledge that the Gatwick Airport Car Parking Strategy 2013 indicates that parking demand can be met within the confines of the airport and that parking there is relatively less unsustainable than parking beyond its limits.

¹ Appeal ref: APP/M3645/W/16/3150030

However, I have already concluded that as the parking is ancillary to the principal use, the development does not amount to an off-airport parking use. I conclude on this issue that the development does not conflict with CS policies CSP1 and CSP16, nor with the transport objectives of the Surrey Transport Plan 2017.

Other considerations

23. The change of use of the building, and the erection of the front fence, has already been granted planning permission. I have no reason to disagree with the Council's conclusions as regards these elements.
24. I note the reference to a planning permission² at the Old House Restaurant with a condition restricting the use of the parking area to hotel and restaurant guests and precluding off-airport parking. The development in this appeal is not an off-airport parking use, but I agree that a condition tying the parking area to guest occupation is necessary to make the development acceptable.
25. I have taken into account the neighbours' letters of support for and objection to the development, and I note the lack of any objection from Crawley Council. The parking areas and the accommodation are sufficiently distant from surrounding occupiers not to disturb their peace or privacy. Unlike in this case, the parking in the 1988 appeal decision³ had no connection to the business in that case, and the Inspector found it intrusive in the Green Belt.
26. The Framework advises that inappropriate development in the Green Belt should not be approved, except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Substantial weight should be given to any harm to the Green Belt, including from inappropriate development; however, I have not identified any other harm.
27. The development brings social and economic benefits to the local area by drawing on its supporting services and facilities, and by providing employment to the owners of the B&B. This is supported by paragraph 28 of the Framework, which indicates that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. I attribute very substantial weight to the benefits of the development to the local economy.
28. I conclude that the Green Belt harm by inappropriateness is clearly outweighed by the economic benefits of the development. Therefore, very special circumstances do exist in this case to justify inappropriate development in the Green Belt.

Conditions

29. As the development has been implemented the statutory time condition is unnecessary. A condition listing the approved plans is necessary to provide certainty about the extent of the site and which parts of the development relate to which use. The parking areas are hard paved and enclosed. Given their utilitarian nature and the woodland to the south of the site, a soft landscaping

² LPA Ref: TA/2012/77

³ Appeal Ref: T/APP/M3645/88/88339/P4

condition is unnecessary to make the development acceptable. Similarly, given the limited size and informal nature of the parking areas and the control the appellant has over them, a condition requiring parking layouts is not necessary.

30. My decision is based partly on there being a link between the C1 use of the building and the first section of parking. Without that link, my conclusion that the development does not amount to an off-airport parking use would not hold. It is therefore essential to apply a condition restricting the use of that parking area to guests of the B&B.
31. I have taken into consideration the representations of the Parish Council at the Hearing, about how a condition should not preclude alternative uses of the land. However, the condition needs to be precise and enforceable. Any wider wording than what I have written would risk the effectiveness of the condition's enforcement. In any event, I have not been provided with alternative wording, and the option remains for applications for planning permission to be made for future uses, if required. I have therefore imposed a condition tying the parking area to the B&B. Without it, the appeal would be dismissed.

Conclusion

32. For the reasons above, and having had regard to all other matters raised, the appeal is allowed.

Patrick Whelan

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr Jesse Chapman	Director, D&M Planning Ltd
Mr Ryan Snow	Senior Planner, D&M Planning Ltd
Mr Richard Mathers	Appellant
Mr David Turner	Co-owner

FOR THE LOCAL PLANNING AUTHORITY:

Mr Chris Hall	Principal Planning Officer, Tandridge District Council
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INTERESTED PERSONS:

Mr Ian Wates	Vice Chairman Burstow Parish Council
Ms Jeannie Ryan	Clerk to Burstow Parish Council
Ms Liz Cutter	Local resident
Ms Kate Bagnall	Local resident