



Appeal Decision

Site visit made on 30 July 2019

by C Beeby BA (Hons)

an Inspector appointed by the Secretary of State

Decision date: 24th September 2019

Appeal Ref: APP/C1570/W/3229370

Sion Park, Birchanger Lane, Birchanger CM23 5PU

- 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 Webb on behalf of Global 600 Ltd against the decision of Uttlesford District Council.
 - The application Ref UTT/18/1114/FUL, dated 7 September 2017, was refused by notice dated 23 November 2018.
 - The development proposed is change of use of land to retain vehicle parking facility.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address which appears above has been taken from the appeal form. This differs from that shown on the planning application form but accords with that shown on the Council's decision notice. An interested party has requested that the above address is used. I am satisfied that this address should be used as the difference between the two is relatively minor and the updated address appears to accurately describe the site's location. Accordingly, I have determined the appeal on that basis.
3. The parking facility to which the appeal relates is already present, therefore I have considered the appeal on that basis.
4. The appeal makes reference to an emerging Local Plan ("the eLP"). This has not yet been formally adopted by the Council. Therefore in accordance with paragraph 48 of the National Planning Policy Framework 2019 ("the Framework"), whilst I have had regard to the eLP I have not attached full weight to it in my consideration of this appeal.
5. The planning application form states that permission is sought for 150 car parking spaces, however the submitted plans show only 90 at the site. Any grant of permission would require compliance with the plans. As such, I consider that the higher figure is likely to include the existing car parking at the business park, and I have considered the scheme on the basis that there are 90 spaces at the appeal site. If my decision were to allow the appeal on this basis, the discrepancy is a matter on which I would have sought further information.
6. The appellant has questioned whether the vehicle parking facility requires planning permission. However, this 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.

Main Issues

7. The main issues are:

- Whether the scheme is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including its effect on the openness of the Green Belt;
- The effect of the scheme on the setting of nearby listed buildings; and
- Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the scheme.

Reasons

Whether the scheme is inappropriate development in the Green Belt and effect on openness

8. The appeal seeks permission for the provision of 90 car parking spaces within a stone surfaced area. These provide parking for users and visitors of the associated business park, and for vehicles associated with the appellant's vehicle leasing business.
9. The provision of the parking area has altered the physical nature of the land. Accordingly, and in the absence of substantive contradictory evidence, I consider that the development comprises an engineering operation for the purposes of paragraph 146 of the Framework.
10. Policy S6 of the Uttlesford Local Plan 2005 ("the ULP") states that the boundaries of Green Belt land within the area are defined on the Proposals Map. The remainder of the policy identifies specific settlements and sites within the Green Belt, and sets out the types of development that will be permitted in these.
11. The appellant contends that Policy S6 is out of date as it refers to advice in withdrawn documents. Whilst the supporting text refers to these, the policy itself does not. The policy states that development compatible with the countryside setting and purposes of the Green Belt will be permitted within the boundaries of the sites identified. Thus, as the policy broadly follows the approach within the Framework, I conclude that it is generally consistent with it and consequently I attribute full weight to the policy.
12. The appeal site is not included within the list of sites which is set out in Policy S6 of the ULP. Whilst the scheme consequently conflicts with the policy in locational terms, the Council does not rely on any further development plan policies. As I have found above that the scheme comprises an engineering operation, paragraph 146 of the Framework indicates that it is not inappropriate development if it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

13. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and that the essential characteristics of Green Belts are their openness and their permanence.
14. The site has a relatively prominent position towards the top of a hill. It is bordered by fields or open land to 3 sides, and by another car park farther down the hill to the fourth. The site lies off a rural lane and has a countryside setting.
15. The built form and additional car parking of the remainder of the business park lie farther down the hillside. As a result, they lack the prominence that the development has in glimpses from the adjoining lane. The vista from the lane is otherwise open as a result of the surrounding countryside. Limited longer-distance views of the development are also likely to be possible due to its relatively elevated location and the rolling topography of the area.
16. The scheme provides for the parking of a significant number of vehicles. The business park is in active use (the appellant states that it is fully let), and its current car park was well used on the day of my visit. Whilst this was merely a "snapshot" in time, the appeal site is conveniently located for access to the business park and there is nothing to suggest that the development is not well used by visitors and employees. Additional use occurs as a result of the lease vehicle parking. The appellant submits that this entails the parking of a variable number of vehicles, at between 1-40 at any one time.
17. The extent of the development's effect on openness is likely to vary as a result of the variable numbers of vehicles at the site. Nevertheless, given the dual purposes of the development, its scale, and the nature of the businesses it serves, there is nothing to suggest that the site does not generally accommodate a significant number of vehicles. There is also nothing to support the submission that the parking area may become unused at some future point.
18. The reflective surfaces and cumulative massing of a significant area of parked vehicles at this prominent location inevitably result in a loss of openness. The scheme extends the business park development into the countryside, and its urbanising effect is consequently one of encroachment into the countryside. The harm to openness and to the purposes of including land in the Green Belt is moderate due to the relatively low height of the vehicles for which the development provides parking.
19. I therefore conclude that the scheme is inappropriate development because it fails to preserve the openness of the Green Belt and conflicts with the purpose of including land within the Green Belt, in respect of the safeguarding of the countryside from encroachment.

Effect on the listed buildings

20. The site lies in the vicinity of Sion House and its outbuildings and stables, which are all Grade II listed buildings.
21. I have a statutory duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the setting of the listed buildings.

22. Paragraphs 193 and 194 of the Framework advise that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
23. The listed buildings are a farmhouse and associated complex which date from approximately the eighteenth century. They lie adjacent to the main body of the business park.
24. The business park has a verdant and rural appearance due to its well treed grounds and open space. The setting therefore contributes these qualities to the significance of the listed buildings. The existing car park lies close to the listed buildings, and the business park and associated hard landscaping and signs create a relatively modern setting. As a result, views of the buildings from within the business park already include a commercial element.
25. The appeal site lies on higher ground than the listed buildings, and landscaping and intervening built form provide a level of screening between the two. Accordingly, the development does not visually compete with the heritage assets. The appeal development represents an extension of the setting's existing commercial appearance, but at a point farther from the heritage assets than similar existing development.
26. I therefore conclude that the effect of the appeal development on the visual aspects of the contribution which the setting makes to the significance of the listed buildings is neutral. As a result, the scheme complies with the aims of the Framework with regard to the conservation of the historic environment and preserves the particular significance of the heritage assets.

Other considerations

27. The appellant submits that the use of the appeal site as a car park is essential to the functioning of one of the main businesses at the park, referring to the failure of a search over a period of years to identify suitable alternative facilities. I am sympathetic to the needs of the appellant's businesses. Notwithstanding this, minimal evidence of the adequacy of the business park's current parking capacity, and hence of the necessity or otherwise of the appeal scheme, is before me. Furthermore, it has not been demonstrated that the proposal needs to be located in the Green Belt and that it would not be feasible to find a suitable site elsewhere. As a result, I attach only limited weight to this consideration.
28. The appellant proposes the use of a condition to limit the benefit of any planning permission to himself only. However, I am mindful of advice in the Planning Practice Guidance which states that planning permission "runs with the land", and that it is rarely appropriate to provide otherwise. The appeal does not provide a compelling case for such a condition. As such, I attach only minimal weight to this consideration.
29. The use of further planting to reduce the proposal's effect on the openness of the Green Belt is proposed. Full details of such a scheme are not before me, such that I have not been able to assess its effect. However, I consider it likely

that longer distance views could be cut off by further planting at a site which is already well treed, with a resulting loss of openness. Thus, I attach only minimal weight to this consideration.

Other Matters

30. The appellant submits that the scheme forms a change of use of land for the purposes of paragraph 146e) of the Framework. If I were to agree, such development may be not inappropriate if it preserved openness and did not conflict with Green Belt aims, in the same way as for the engineering operation exception at 146b), which is considered above. However, I have found that the scheme fails to preserve the openness of the Green Belt and conflicts with the purpose of including land within it. Accordingly, even if the scheme were to form a change of use of land for the purposes of the paragraph, my conclusion on the first main issue of the appeal would be the same.
31. I have had regard to other matters raised, including concerns about the scheme's effect on highway safety, biodiversity and illumination at night. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Conclusion

32. I have found that the appeal proposal is inappropriate development in the terms set out in the Framework. The Framework indicates that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.
33. The finding of a neutral effect on the heritage assets does not weigh for or against the scheme. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.
34. The scheme conflicts with Policy S6 of the ULP, which identifies potential locations for development within the Green Belt. Further conflict exists with the provisions of the Framework in respect of the Green Belt.
35. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR