



Appeal Decision

Site visit made on 17 September 2019

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 November 2019

Appeal Ref: APP/N0410/C/18/3213168

**Thorney Park Golf Course, Thorney Mill Road, Iver, Buckinghamshire
SL0 9AL**

- 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 Airparker Limited against an enforcement notice issued by South Bucks District Council.
 - The enforcement notice was issued on 24 August 2018.
 - The breach of planning control as alleged in the notice is without planning permission: -
The material change of use of the Land to use for the parking and storage of motor vehicles in connection with airport car parking (a sui generis use) including the stationing on the Land of a portable building in use for staff facilities; and
The carrying out on the Land of operational development ancillary to and designed to facilitate the Unauthorised Use, comprising the erection of floodlighting and CCTV cameras (together with all incidental fittings and fixtures) and the laying of hardsurfacing on the Land.
 - The requirements of the notice are: -
 - i. Cease the use of the Land for the parking and storage of motor vehicles;
 - ii. Remove from the Land all motor vehicles not related to any lawful use of the Land;
 - iii. Remove all the hardstanding from the Land;
 - iv. Remove the portable building (as indicated in the approximate position shown marked "a" on the Plan) from the Land; and
 - v. Remove the floodlighting and CCTV cameras (including all incidental fixtures and fittings), and any waste materials arising from the carrying out of the steps in this paragraph 5, from the Land.
 - The periods for compliance with the requirements are: -
 - i. and ii. 5 WEEKS; and
 - iii., iv. and v. 4 MONTHS
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended (the 1990 Act).
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The Notice

1. I have powers under Section 176(1)(a) of the 1990 Act to correct any defect, error or misdescription in the enforcement notice. The alleged breach of planning control as shown on the plan attached to the enforcement notice includes part of the car park used in association with Thorney Park Golf Course. It was included as the portacabin referred to in the description of the alleged breach and used in connection with the use had been sited there. However, this is no longer the case. The alleged breach does not refer to the use of part of the land as a golf club. I asked both parties for their comments as to whether the land to which the enforcement notice relates (shown edged red on the plan attached to the notice) should include the land to the north of the

existing hedgerow that appeared to be outside the area used for carparking and associated with the adjacent golf club.

2. No comments were received from either party. However, amended plans were received from both parties. The amended plan received from the appellant does not clearly indicate how it considers the area should be altered. Nevertheless, the amended plan submitted by the Council suggests that the land should be omitted. Reducing the area of land to which the enforcement notice relates would make it less onerous and so I can make the necessary corrections to the notice without causing injustice to the appeal parties. I intend to correct the notice by omitting the original attached plan and replace it with the amended plan submitted by the Council. As the portacabin had been sited in this area, albeit it had been removed by the time of my site visit, I shall remove any reference to it from the allegation and requirements of the notice.
3. To ensure clarity I also consider that the requirements of the notice should be corrected by adding the words '*in connection with airport car parking*' at the end of requirement i). I can make the necessary corrections to the notice without causing injustice to the appeal parties.

Procedural Matters

4. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. However, the sections relevant to this appeal have not materially altered. As such, in the circumstances of this case I do not consider that it is necessary to seek the further views of the parties. I am required to consider the appeal on the basis of the current Framework.

Decision

5. It is directed that the enforcement notice be corrected:
 - By the substitution of the plan annexed to this decision for the plan attached to the enforcement notice;
 - By the deletion of the words 'the stationing on the Land of a portable building in use for staff facilities; and' from the description of the alleged breach;
 - Adding the words '*in connection with airport car parking*' at the end of requirement i);
 - By the deletion of requirement iv).

Subject to these corrections the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act.

The appeal on ground (a)/the deemed planning application

Main Issues and background

6. A planning application for the change of use to airport car parking and including the installation of flood lighting, CCTV security and the laying of hardsurfacing

at Thorney Park Golf Course was refused by the Council on 6 November 2017. Based on the evidence before me, I consider that the main issues are: -

- Whether the unauthorised use constitutes inappropriate development in the Green Belt, having regard to the effect on the openness and purposes of the Green Belt, the development plan and the Framework;
- The effect on protected species;
- The effect on highway safety;
- Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, whether this amounts to the very special circumstances required to justify the development.

Reasons

7. The appeal site comprises an irregular shaped piece of land between Thorney Mill Road and the formally laid out car park that appears to serve Thorney Park Golf Course. The site is mainly hardsurfaced and is bounded by a mix of mature landscaping and fencing. Access to the site is through the Golf Course's car park.

Whether the proposal constitutes inappropriate development in the Green Belt

8. Policy GB1 of the South Bucks Local Plan (LP) states that planning permission will not be given in the Green Belt for the change of use of land other than where it does not compromise the purposes of including land within the Green Belt and where its open and undeveloped character is permanently retained. Although this policy is of some age, it is broadly consistent with paragraph 146 of the Framework. This advises that material changes in the use of land are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
9. The appellant has stated that the appeal site was used for overflow parking in association with the golf course but was very rarely utilised and that it had a restriction on it that it could only be used for 28 days in a year. I have taken the latter to be a reference to Article 3, Schedule 2, Part 4, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) which permits the use of any land for any purpose for not more than 28 days in total in any calendar year.
10. I have little evidence to indicate how the site was surfaced prior to the alleged breach of planning control commencing. However, as the car parking in association with the golf course had rarely happened and given that the planning application cited above included the laying of hardsurfacing I consider that it is likely that the surface of the site was not predominantly hardsurfaced.
11. Due to the nature of the physical changes to the appeal site in this respect the development has a limited impact on the openness of the Green Belt. Nevertheless, the nature of airport parking is that cars are likely to be present on site in significant numbers for the great majority of the time. When I visited, large areas of the site were occupied by vehicles parked close together leaving some circulation space around the edges of the areas of parked vehicles. A submitted plan within the evidence before me indicates that 'car park 2' could

be laid out to accommodate 140 cars. However, that plan assumes that vehicles would be parked in rows with circulation space between them.

12. I consider that the site is of a size capable of accommodating a substantial number of vehicles parked in the manner I observed. I conclude that the parking of so many vehicles for much of the time has reduced openness as matter of fact. However, openness also has a visual dimension. I accept that, from Thorney Mill Road, the site and the vehicles parked on it are largely screened from view when the mature landscaping is in full leaf. Nonetheless, at other times of the year the large number of cars covering substantial parts of the appeal site would be readily apparent to passing pedestrians and vehicles.
13. The site is adjacent to a public house and car wash and the M25 is nearby. Even so, the site is part of the Colne Valley Park and it forms parts of the land associated with a golf course. The mature landscaping extending along parts of Thorney Mill Road limits views of other development in the vicinity of the site, giving the setting a rural flavour. By introducing an essentially urban activity into the above context, including floodlighting and CCTV paraphernalia, the development has therefore also amounted to encroachment into the countryside. This is in conflict with one of the purposes of including land within the Green Belt set out at paragraph 134 of the Framework.
14. Therefore, the development does not preserve the openness of the Green Belt and conflicts with one of the purposes of including land within it. Accordingly, it amounts to inappropriate development in the Green Belt when considered against paragraph 146 of the Framework.

Protected species

15. The Council have referred to Core Policy 9 of the South Bucks Core Strategy. However, I have not been provided with a copy of that policy and therefore I can give it little weight. Nevertheless, paragraph 170 of the Framework states, amongst other things, that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity.
16. Paragraph 99 of Circular 06/2005¹ advises that the presence or otherwise of protected species and the effect new development might have upon them should be established before planning permission is granted. However, paragraph 99 goes on to advise that '*... developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development*'.
17. I also note that the site is within 3 kilometres of the South West London Waterbodies Ramsar and Special Protection Area and Wraysbury Reservoir Special Site of Scientific Interest. The appellant has not submitted an Ecological Appraisal or biodiversity survey of the existing site or the potential impacts of the development on the biodiversity and protected species that may be on the site or utilising it. As stated above, there is mature landscaping around the site that could, in my experience, be suitable habitats for protected species.
18. On the available evidence and having regard to the provisions of paragraph 99 of Circular 06/2005, I conclude that there is a reasonable likelihood of

¹ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system

protected species being present and affected by the development and therefore an ecological survey should be required. As such, I am unable to conclude that the development does not cause any demonstrable harm to a protected species or its habitat or that the development minimises the impact on the natural environment. As such, the proposal conflicts with paragraph 170 of the Framework.

Highway safety

19. The development is accessed through the golf club's car park and therefore it utilises the pre-existing exit/entrance off Thorney Mill Road that serves the golf club. The site entrance is wide enough for vehicles to enter and exit at the same time and I noted that there is good visibility at the junction in both directions. At the time of my visit, in the middle of the day, Thorney Mill Road was reasonably busy and whilst traffic levels may vary, it is unlikely to be significantly quieter at other times of day.
20. The development has the potential to generate an appreciable increase in the amount of traffic travelling to and from the site. Moreover, the Council have stated it considers that from the information submitted with the previous planning application that the additional traffic likely to be generated would adversely affect the safety and flow of users on the existing highway network. However, I have not been provided with a copy of the information that formed part of the previous planning application. In addition, the development appears to have been operating for some time and I have not been provided with any evidence of how the traffic generated by it has adversely affected the safe and efficient operation of the highway network.
21. Consequently, based on the evidence before me there is little to indicate that the development has compromised the safe movement and free flow of traffic on the network or the safe use of the road by others. It follows that the proposal complies with LP Policy TR5 in this respect. It also complies with paragraph 109 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other considerations

22. Although limited details have been provided concerning the employment created by the development, this is a benefit to which I shall give modest weight.
23. Whilst the parking spaces appear to be in demand, it is not clear whether the use is meeting a previously unmet need, or whether "affordable" parking has created extra demand. I accept that the efficient and effective functioning of the airport is in the national interest, but it is not clear whether this development contributes to that. As such, these matters have limited weight.

Other matters

24. I appreciate that there are likely to be other sites in the Green Belt and Colne Valley Park where similar development could be repeated in the future. This would cause further harm to the openness and purposes of the Green Belt. However, no specific instances have been drawn to my attention and each scheme has to be dealt with on its individual planning merits.

25. The references to other development plan policies have been noted. However, the development plan policies to which I have referred are considered the most relevant to this appeal.

Planning balance

26. The proposal would be inappropriate development in the Green Belt. At paragraph 143, the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework establishes that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
27. For the reasons given above, the other considerations in combination do not clearly outweigh the harm to the Green Belt and the potential harm to protected species. Consequently, the very special circumstances necessary to justify the development do not exist. As such the development conflicts with LP Policy GB1 and the Framework. With regard to paragraph 213 of the Framework given my findings above the conflict has considerable weight. The development conflicts with the development plan as a whole and material considerations do not indicate that it should be determined other than in accordance with the development plan.
28. For the reasons set out above, and taking into account all other matters raised, I conclude that the appeal on ground (a) should not succeed. I shall refuse to grant planning permission on the deemed application.

The appeal on ground (g)

29. The appellant has not specified how long they need to comply with the enforcement notice. Nonetheless, they have stated that they need time to submit a planning application for the development and a Lawful Development Certificate for car parking on the site.
30. However, as stated above a planning application by the appellant was refused by the Council on the 6 November 2017 and no appeal was submitted against that refusal. Furthermore, the Council have stated that no further planning applications have been submitted in relation to the development.
31. The development has been on the site for some time and the appellant has been aware of the enforcement notice for a long time and so there has been plenty of time to submit the above applications. As such, the time limits attached to the requirements of the enforcement notice are reasonable. It follows that the appeal on ground (g) fails.

Conclusion

32. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.

D. Boffin

INSPECTOR



Plan

This is the plan referred to in my decision dated: 25 November 2019

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**Land at: Thorney Park Golf Course, Thorney Mill Road, Iver, Buckinghamshire
SL0 9AL**

Reference: APP//N0410/C/18/3213168

Scale: Not to Scale

