



Appeal Decision

Site visit made on 19 January 2021

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2021

Appeal Ref: APP/Q4625/W/20/3256650

Village Farm, Coventry Road, Solihull B26 3QS

- 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 Village Farm Estate against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2020/00218/PPFL, dated 27 January 2020, was refused by notice dated 21 April 2020.
 - The development proposed is a change of use of land to airport parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence before me indicates that the Council has served an enforcement notice upon part of the land and the appeal is made retrospectively. I have therefore dealt with the proposal as one under s73A of the Act for development already carried out. For the avoidance of doubt, my consideration of the proposal is limited to that specified in the planning application. It is therefore exclusive from any enforcement proceedings being pursued, or otherwise, by the Council.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development within the Green Belt
 - whether or not the siting of the development would be appropriate for facilities to serve Birmingham Airport
 - the effect of the proposal on highway safety, local living conditions, ground contamination and the character and appearance of the locality, and
 - 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 the very special circumstances necessary to justify the development.

Reasons

Green Belt

4. The Government attaches great importance to Green Belts. Section 13 of the National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition to that restriction, Policy 17 of the Solihull Local Plan [2013] (SLP) states that the Council will take a number of other matters into consideration for development proposals in the Borough's Green Belt.
5. Paragraph 146 of the Framework makes it clear that certain forms of development are not inappropriate in the Green Belt providing they preserve its openness and do not conflict with the purposes of including land within it. Of those exceptions, my attention is drawn to Paragraph 146 e) in relation to material changes in the use of land.
6. The proposed use of the site would result in the presence of parked vehicles and a portable building sited upon the land. Although the vehicles are transient in their nature and a mobile building could be moved about the site such that it would not be permanently located in the same place, the permanent use of the site as an airport parking site would result in its significant coverage by vehicles and a cabin. Although individually or cumulatively their presence might be fluid and variable in extent, the presence of vehicles and cabin would inevitably prevail for the duration of the proposed use. This would cause considerable harm to the spatial openness of the land.
7. At the time of my site inspection, the profile of the land, surrounding vegetation and nearby development was observed to limit views into the main area of the site such that any impact on the visual openness would be limited. However, any use of the access track for parking or the siting of the cabin would cause some harm to the visual openness of this part of the Green Belt.
8. Furthermore, the use of agricultural land for non-rural land-based enterprise that would cause harm to its openness would also be a form of encroachment into the Green Belt. This would undermine its essential characteristics and conflict with the aim of safeguarding the countryside from encroachment.
9. For the reasons set out above, I conclude that the development would constitute inappropriate development within the Green Belt that would erode its openness and conflict with one of the purposes of including land within it. As such, it would be contrary to Policy 17 of the SLP which seeks the aforesaid aims. For similar reasons, the development does not fall within the exceptions outlined in the Framework.

Siting

10. The proposal would provide a parking facility close to Birmingham Airport which is identified by the Council as the principal international gateway to the region and one that is vitally important in the local and regional economy. However, to avoid development from detracting from the airport function, Policy P1 of the SLP directs supporting infrastructure, including car parks, to defined areas. Additionally, such proposals are subject to justification in terms of scale and their support of the airport function.

11. Notwithstanding that the proposal is limited in scale compared to other parking facilities serving the airport, in the face of little evidence before me to demonstrate any need or effect on existing provision, there is limited justification for a proposal sited beyond the envelope of land identified for airport development. As acknowledged within the Council's policy, this may undermine the strategic aims and aspirations of the airport as a significant economic asset. It may also run contrary to the aim of providing parking facilities at a rate less than the rate of increase in passenger and employee numbers to encourage sustainable transport modes.
12. In support of the proposal the appellant submits that part of the wider site benefits from an existing lawful use for vehicle parking and thereby establishes a principle of development. Whilst I acknowledge the adjacent area benefits from a Certificate of Lawfulness for vehicle storage and parking, any benefit therein is limited to a defined area and does not convey any change of status of the land of the appeal site or other land in the context of the SLP. Furthermore, precedent development is rarely an argument that should carry great weight in planning decisions which should be made on their own merits in the context of the development plan and other material considerations.
13. I recognise that the proposal would have the potential to give rise to economic benefits in its own right or could be operated in a manner to sustain an existing business. However, those economies have not been quantified in the context of the wider airport function and supporting facilities. Any effect on its strategic function has therefore not been demonstrated. Although the appellant claims that the proposal would not detract from supporting the economic growth of the airport, I find there is little by way of objective analysis or conclusive evidence of this.
14. For those reasons, the proposal lying outside of a location identified for the strategic development and support of Birmingham Airport would directly conflict with Policy P1 of the SLP as it seeks to support and sustain the airport function by directing associated development to defined locations.

Highway safety

15. The existing wide access track to Old Damson Lane could provide a suitable dedicated vehicular access for the parking facility. This one-way rural lane links to strategic roadways at either end and, given the likely dispersed times of comings and goings, would be capable of accommodating the level of traffic generated by the limited scale of the site.
16. Exit visibility in the direction of approaching traffic is good and its maintenance and/or improvement over land within the highway and/or the appellant's ownership could be secured through appropriately worded planning condition. However, no pavements exist along the substantial length of Old Damson Lane to facilitate pedestrian access onto Coventry Road and the airport beyond. Furthermore, no other safe pedestrian routes are identified to facilitate access on to the main road.
17. Although Coventry Road has a signalised crossing to facilitate pedestrians, the busyness and traffic speed of the road would be potentially hazardous for pedestrians, especially for people trying to manage baggage and small children along unprotected pavements either side of the main road. This would be

particularly so during darker hours and over the distance to the closest main entrance and bus stops serving the passenger terminal.

18. I acknowledge that the location would benefit from easy access for vehicle users and lies in close proximity to public transport links. Additionally, it has been in operation without any report of accidents. However, it would fail to provide safe pedestrian links. I therefore find it would conflict with Policies P7 and P8 of the SLP as they seek to secure safe and accessible forms of development.

Living conditions

19. The location of the site is distant from noise sensitive buildings such that, in normal use, any noise from voices, engines, car radios or the slamming of vehicle doors within the site would be unlikely to disturb local residents or users of nearby accommodation. Furthermore, notwithstanding the rural character of Old Damson Lane and the potential for round the clock access requirements, any effect arising from the dispersed additional traffic generation would be unlikely to materially affect other properties on the lane or at its junction with Coventry Road.
20. However, some disturbance would likely be experienced from the focussing of pedestrians making their way to or from the airport connections when passing the residential properties on Coventry Road and accommodation close to the junction with Old Damson Lane. This would have a high potential to cause noise of a nature and sufficient volume to disturb occupiers of those properties during unsociable hours when background noise is low and when they might expect to enjoy undisturbed sleep or rest.
21. The appellant states that the use has operated for some time without complaint, however, it is unclear from the evidence before as to the term of that use. Furthermore, I am mindful of the effects of the pandemic whereby general airport use has been significantly curtailed such that recent months would not provide a reliable period over which to assess such effects.
22. As an aspect of the proposal that could not be effectively mitigated, I find that it would have potential to cause significant harm to the living conditions of the occupiers of those premises. This would conflict with Policy P14 of the SLP as it seeks to protect the amenity of existing and potential occupiers of houses and businesses and minimise the adverse impacts of noise.

Contamination

23. Parked vehicles have potential to contaminate the ground on which they stand through leakage and deposit of fluids and other contaminants. These and uncontrolled contaminated wash during rainfall events have potential to pollute land and water bodies. Although contamination matters are often suitably addressed by planning condition in a manner consistent with Paragraphs 54 and 55 of the Framework, the implications in the particular circumstances of the case are unknown and could, in themselves, lead to additional harm to Green Belt interests through further loss of openness.
24. In the face of little evidence to guarantee a non-polluting form of development, and being mindful that the use has previously taken place, the imposition of a planning condition potentially requiring operational development such as impermeable surfacing, engineering or other drainage works, which would lie

outside the scope of the description of the development, is unlikely to pass the test of reasonableness. In those circumstances, and in the absence of any alternative mechanism to secure avoidance of potential contamination and pollution incidents, those likely impacts would not be mitigated.

25. For that reason, I find that the proposal would conflict with Policy P14 of the SLP as it seeks to control the effects of ground contamination and the Framework as it seeks to protect people and the natural environment from the effects of pollution.

Character and appearance

26. The site is located close to a cluster of commercial and residential properties fronting Coventry Road. These include a car dealership with vehicle storage areas, a bed and breakfast, restaurant and residential properties. Other immediately adjacent land belonging to the appellant is used for vehicle storage and parking or open rough grassland. The rectangular area of land making up the majority of the appeal site is built up with loose-laid hardcore. The main area is bordered by scrub and pioneer vegetation on three sides. A grassed mound lies to the south adjacent to a rough surfaced track leading to the gated access on to Old Damson Lane.
27. In the context of the neighbouring development and the extended hardstanding to the south, the proposal would not appear inconsistent with the prevalent character of development. The limited vegetation to the peripheries of the main area assists in assimilating that part of the site and could be retained and/or enhanced through suitable planning condition.
28. However, the main length of the access road lies between rough grassed areas. From Old Damson Lane it is observed in this context and therefore has greater affinity to the areas of open grassland to the south. Unlike the main area of the site, the initial length of the access track would be visible from the road. Only if parking or siting of the cabin took place on the visible elements of the access road would a significant adverse impact on the character and appearance of the locality arise. In accordance with Paragraph 54 of the Framework, this could be restricted to make the proposal acceptable in planning terms in that respect.
29. Accordingly, I find that the proposal would reflect the existing character and appearance of the locality and be consistent with the approach of Policy P15 of the SLP as, amongst other things, it requires development proposals to conserve and enhance local character, distinctiveness and landscape quality.

Other Considerations

30. Although the planning application form indicates that the proposal would not create additional jobs it would, nevertheless, contribute to the local economy through local spend and the use of nearby services by clientele. I acknowledge that the proposal could be operated in conjunction with the use of the adjacent site to the west to support or expand an existing business in the locality. These are matters to which I attribute moderate weight.
31. The proposal would utilise land that is currently surfaced with hardcore. The change of use of the land from a 'nil' use, as described by the Council, does not include proposed operational development. It would therefore recycle redundant land for an alternative use without change to its physical status or involve aspects of new design. However, given its location within a countryside

area where net environmental gains and the remediation and mitigation of derelict land are encouraged in the Framework, I find that the retained condition of the land is a matter of neutral weight.

32. The absence of material harm with regards to loss of light, privacy or overbearing impacts are also matters of neutral weight. My finding with respect to the effect on character and appearance is not a benefit in favour of the proposal.

Conclusion

33. By virtue of the adverse effect on openness and conflict with the purpose of preventing encroachment which would result from the presence of parked vehicles and the long term stationing of a cabin, the change of use of the land for airport parking is inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm.
34. Added to this is the other harm identified, which includes the avoidance of prejudice to the Birmingham Airport function as required by the development plan policy, the harm to highway safety and living conditions, and, the absence of mitigation to prevent pollution as required in the SLP and Framework.
35. The considerations presented by the appellant, including the support for rural business and economic benefits and the re-use of derelict land in close proximity to existing public transport links, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify granting planning permission do not exist and the development is contrary to Policies P1, P7, P8, P14 and P17 of the SLP and the Framework.
36. For the reasons set out above, I conclude that the appeal should be dismissed.

R Hitchcock

INSPECTOR