
Appeal Decisions

Hearing Held on 12 May 2021

Site visit made on 13 May 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 May 2021

Appeal A: APP/N1920/W/20/3251634

Willows Activity Farm, Coursers Road, Colney Heath, St Albans AL4 0PF

- 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 Greg Lawson of Smart (Group) Ltd against the decision of Hertsmere Borough Council.
 - The application Ref 19/0551/FUL, dated 2 April 2019, was refused by notice dated 23 October 2019.
 - The development proposed is described as temporary use of the car park for the siting of a marquee for corporate Christmas parties and parking for a period of 5 years between 18 November and the 29 December each year.
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Appeal B: APP/N1920/W/21/3270866

Willows Activity Farm, Coursers Road, Colney Heath, St Albans AL4 0PF

- 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 Greg Lawson of Smart (Group) Limited against the decision of Hertsmere Borough Council.
 - The application Ref 20/1648/FUL, dated 13 October 2020, was refused by notice dated 15 January 2021.
 - The development proposed is described as temporary use of the car park for the siting of a marquee for corporate Christmas parties and parking for a period of 5 years between 18 November and the 29 December each year.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for use of the car park for the siting of a marquee for corporate Christmas parties and parking for a period between 18 November and the 29 December each year, at Willows Activity Farm, Coursers Road, Colney Heath, St Albans AL4 0PF, in accordance with the terms of the application, Ref 19/0551/FUL, dated 2 April 2019, subject to the conditions set out in the schedule attached to the end of the decision.

Appeal B

2. The appeal is allowed and planning permission is granted for use of the car park for the siting of a marquee for corporate Christmas parties and parking for a period between 18 November and the 29 December each year, at Willows Activity Farm, Coursers Road, Colney Heath, St Albans AL4 0PF, in accordance with the terms of the application, Ref 20/1648/FUL, dated 13 October 2020,

subject to the conditions set out in the schedule attached to the end of the decision.

Procedural Matters

3. As set out above, there are 2 appeals on the site. They relate to identical proposals submitted in 2019 and 2020 respectively. Whilst the original description of development in relation to Appeal A contained a start date of 2019, the parties agreed at the Hearing that both Appeals should be considered on the basis that any permission would run from the point of approval. I have therefore used the Council's description of development for Appeal A in the banner heading above, which otherwise matches that used in the application related to Appeal B. Given that the proposals are identical, for ease of reading I shall use the singular rather than the plural when making reference to 'the development' in my reasons below.
4. Temporary planning permission for a period of 5 years has been sought. According to the appellant, 13 previous temporary planning permissions have been granted for similar developments since 2000. The last of these was granted in 2016 as a 'variation' of a permission which was itself granted at appeal in 2014 (the previous appeal). The variation permission was for a development substantially the same as that currently proposed. Though the Council's version of the planning history extends back no further than 2006, it has not disputed the above. The time period covered by previous permissions includes every year from 2000 to 2018. Were the Appeals to be allowed and 2 further temporary permissions to be granted, I have every expectation that similar applications would follow in the future.
5. The Planning Practice Guidance (PPG) states that it will rarely be justifiable to grant a second temporary permission, except in cases where changing circumstances provide a clear rationale. This generally reflects the principles previously set out in Circular 11/95. The guidance has thus been largely the same for the whole of the period covered above. Given that any temporary permission must ultimately be secured by a condition, the PPG is material consideration which attracts significant weight in this case.
6. The PPG states that further permissions can normally be granted permanently or refused if there is clear justification for doing so. Indeed, if harm were to be considered acceptable only on the basis of the temporary duration of a permission, it would be illogical to grant such a permission more than once. Conversely, it would be unreasonable to impose a condition restricting the duration of a permission if its effects were in fact acceptable. Having consulted the parties, I have therefore considered whether permanent permissions should be granted, and accordingly assessed the development on the basis of its permanent effects. This is further reflected in the wording of my decisions above, from which, for sake of clarity, I have omitted the phrase 'for a period of 5 years'.
7. I recognise that this represents a different approach to that taken by the Inspector in the previous appeal. In that case a twelfth temporary permission was justified on the basis of the potential for a change in circumstances. However, as no change has occurred since, and none is anticipated, I can see no justification for adopting the same approach in this case.

8. Applications for costs were made by Greg Lawson of Smart (Group) Limited against Hertsmere Borough Council in respect of both Appeals. These applications are the subject of a separate Decision.

Main Issues

9. The main issues are:

- whether the development would be inappropriate in the Green Belt;
- the effect of the development on the openness of the Green Belt;
- the effect of the development on the character and appearance of the area, including whether the development would preserve the setting of a Grade I listed building;
- whether the site would be a sustainable location for the development with regard to access by means other than private motor vehicles; and
- if the proposal would be inappropriate development, whether 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 it.

Reasons

Whether the development would be inappropriate development

10. The site is located within the Metropolitan Green Belt. Policy CS13 of the Core Strategy 2013 (the CS) seeks to restrict inappropriate development within the Green Belt on the basis set out within the National Planning Policy Framework (the Framework). In this regard paragraph 145 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions are set out within paragraphs 145 and 146. The proposed development would meet none of these exceptions.
11. I therefore conclude that the development would be inappropriate in the Green Belt. Inappropriate development is by definition harmful.

The effect on openness

12. The site forms part of a car park attached to Willows Activity Farm. The site is therefore a hard-surfaced open space, albeit one periodically occupied by vehicles. The car park is itself clearly a developed space, and when present within it, vehicles both individually and collectively erode the openness of the Green Belt. As use of the car park varies on a seasonal basis, so too does the extent of the physical and visual harm caused by parking. Indeed, as winter sees 'significant underuse' of the car park, its use is least harmful at that time of year.
13. The proposed marquee and related structures would stand within the car park for 42 days during the winter. I have been provided with no indication of the overall volume of the structures, but given that they would cover a footprint of 3857.8 m², at a maximum height around 6m, the volume would be substantial. It would also far exceed that of vehicles were they to be parked within the same footprint during the same period.

14. The development would therefore physically erode the openness of the Green Belt, and this would be visually appreciable to anyone attending events, to anyone using the adjacent public footpaths, and to anyone viewing the site across open land from Coursers Road.
15. In each regard the effects would be limited to a 42-day period. The effects would furthermore vary during this period when taking account of construction and dismantling phases, each of around a week in duration. Given that most viewers would clearly interpret the development as temporary in character and nature, the adverse effects on the openness of the Green Belt would be reduced further still.
16. For the reasons outlined above I conclude that the development would cause only limited harm to the openness of the Green Belt.

Character and appearance

17. The site forms one of a cluster of car parks adjacent to Willows Activity Farm, which itself consists of a range of semi-industrial and agricultural sheds painted various colours. Similar structures serving commercial uses stand immediately adjacent. From certain perspectives, and in certain seasons, these are screened by bunds and or planting. However, little screening exists around the site. The broader setting consists of open land of generally rural character, albeit this is substantially encroached upon by quarrying and the M25.
18. Within this context, Tyttenhanger Manor, a Grade I listed building (the listed building), stands just under 500m from the site, with front elevation facing directly towards it. In the absence of any significant intervening obstruction, the site forms a component of the direct outlook from the listed building, and the latter indeed has a noticeable presence in northward views from the car park. Some additional intervisibility exists between the site and driveway to the listed building. Given that the development would thus clearly affect the setting of the listed building, it is necessary to have special regard to the desirability of its preservation.
19. Insofar as it is relevant to the Appeals the special interest and significance of the listed building resides in its past function, its mid-seventeenth century origin, and its formal architectural character, which is partly attributed to Soane. Its immediate parkland setting complements its appearance.
20. The full extent and historic layout of the parkland south of Tyttenhanger Manor is unclear. Neither party has provided any evidence. Nevertheless, in the absence of the car parks and associated landscaping, the direct line of view from the listed building would be largely free from development. Indeed, it is probable that the outlook from the house was historically across open country. Thus, whilst the car park currently provides a vantage point from which the significance of the listed building can be appreciated, it is itself an intrusive feature, and the more so when in use.
21. In view of my assessment above, the construction of a large building within the car park would represent a greater source of visual intrusion than were the car park to remain in its normal wintertime use. This would be appreciable from the house, the car park, and any vantage point featuring both. It would not be relieved in this instance by the close proximity of the marquee to other large buildings at Willows Activity Farm, given that these do not interrupt the direct

line of view from the house, or assisted by the white finish of the marquee, which would cause it to be more noticeable within this view. Given the increased harm that would result from increased visual intrusion, the setting of the listed building would not be preserved by the development.

22. In terms of the more general effects of the development on the character and appearance of the area, the impact would be more modest. Indeed, the character and appearance of the area can only be partly defined with reference to the listed building. In this regard the immediate developed setting of the site would form the primary frame of visual reference within views of the development from Coursers Road, as from within Willows Activity Farm itself. Within this context any sense of intrusion would be limited.
23. Moreover, the effects would again be time limited, variable, and appreciably temporary, whilst continued public appreciation of the significance of the listed building within its parkland setting would remain possible during this period from the right of way towards the north.
24. As such, I conclude that any harm caused to the general character and appearance of the area would be very limited, and, but for the overlapping adverse effects of the development on the setting of the listed building, not unacceptable. Indeed, the Council has not identified any policy conflict in this regard. Less than substantial harm would nonetheless be caused to the significance of the listed building, to which I must attach considerable importance and weight. In accordance with paragraph 196 of the Framework this harm must be balanced against the public benefits of the development. This I shall undertake within the context of 'other considerations' and the 'planning balance' below.

Location

25. The Council disputes the appellant's claim that the venue would be available for small-scale public bookings. Either way, it is clear that the principal purpose of the development would be to cater for large scale corporate works events, potentially involving in excess of 1,000 guests. Past corporate clients exist within a geographically broad area identified as covering the settlements of Hemel Hempstead, St Albans, and Hatfield, within the Council areas of Dacorum, Hertsmere, Welwyn Hatfield, and St Albans City and District (the catchment).
26. The site is well connected by road within the catchment. As in the past, it is likely that the majority of guests of the large events in question would be conveyed to and from the site by coaches centrally organised by their employer. Travelling by coach, like bus, is considerably more environmentally efficient than travel by private vehicles, and thus far less environmentally harmful.
27. For the above reason, the fact that the site is not connected to the adjacent settlement of London Colney by lit pavement or cycle path is of little relevance. Indeed, given the size of the catchment, any expectation that guests should be able to walk or cycle to and from the site is wholly unrealistic. The fact that the site is not well served by bus links or other means of public transport is also of little consequence, given that the likely use of coaches would achieve a very similar effect.

28. Insofar as the decision notices reference staff journeys, use of private vehicles seems probable. The same might be true of small-scale public bookings if these were to in fact occur. Such bookings might however just as well be served by taxi or minibus. As most such journeys would be likely to originate from within the immediate locality, even if private vehicles were to be used, these journeys would cause little harm in themselves.
29. In view of my findings above, I attach no weight to the Council's suggestion that the site location would give rise to drink driving. Aside from the fact that the Council has failed to provide any evidence that this has occurred in the past, it is a matter which is subject of separate legislation and enforcement by the police.
30. For the reasons set out above I conclude that the site is a sustainable location for the development with regard to access by means other than private motor vehicles. As such, no obvious conflict arises with Policy CS26 of the CS, which seeks to secure measures to promote alternatives to the car as part of a proposed scheme. Whilst conflict with Policy CS25 of the CS is also listed in relation to this matter within the decision notices, this relates to off-street parking provision within the context of access to local services. As such, it does not appear to be directly relevant.

Other considerations

Fallback

31. Both parties agree that the development could ordinarily take place for 28 days as permitted development (PD). Given the extension of these rights during 2021, then, public health considerations permitting, the full 42-day period could be covered as PD this winter. PD was also utilised up to a point in 2019, albeit on that occasion the development ran over the 28-day limit.
32. The appellant states that in order to cater for the same level of business over 28 days after 2021, the development would need to be doubled in size, thus doubling its adverse effects. However, and in view of 2019, I have not been provided with any firm evidence that such a contingency has been planned for. Furthermore, given that higher relative costs would be incurred, the implications in terms of future viability are unclear. I cannot therefore be certain that the development would in fact take place through use of PD after 2021 were the Appeals to be dismissed.
33. It is of some relevance to note that the harm I have identified above could legitimately arise for most of the period for which planning permission has been sought. However, if undertaken as PD, the adverse effects would be acceptable by definition. As this acceptability is based on the strict time limit imposed, little if any weight can be attached to fallback as justification for a longer period.

Environmental benefits

34. In the event that the development did not occur at the site, the lack of alternative venues capable of hosting large scale events within the catchment would give rise to travel elsewhere. Indeed, I see no reason to believe that major employers within the catchment would simply cease to hold events for their employees at Christmastime if a venue ceased to be available at the site.

35. The Council's suggestion that the demand could be catered for by local venues such as pubs and restaurants instead, misses the point. Whilst such venues could absorb small groups, venues of a size sufficient to cater for very large parties are otherwise located in Central London. London is well serviced by public transport. However, the use of centrally organised travel would again be more logistically simple, and thus more likely.
36. I have already found that the location is sustainable, whereas travel into Central London would involve both increased distances and increased potential for congestion. The adverse effects of travel upon both the natural and human environments would therefore be significantly greater than those likely to be generated in relation to the development. Given that environmental harm would inevitably be generated either way, the generation of lesser harm in relation to the proposed development is a public benefit which attracts significant weight in its favour.

Alternatives

37. The appellant has provided the site search undertaken in relation to the scheme subject of the previous appeal, and updated in relation to Appeal B. This evidence shows that within the catchment there are no other suitable alternative sites outside the Green Belt which could permanently accommodate the proposed development.
38. The appellant further confirmed at the Hearing that given land values and other considerations, there was little realistic expectation that a suitable alternative site will ever be found. Though the Council has questioned the validity of the search evidence, it has provided no evidence of its own. I therefore have little reason to question the appellant's evidence.
39. Both the above, and uncertainty regarding the potential use of fallback after 2021, indicate that the corporate demand for large venues at Christmastime may not be satisfied within the catchment in the future were the Appeals to be dismissed. This serves to confirm and to further strengthen the significant weight I have attached to the environmental benefits of the development as outlined above.

Economic benefits

40. In previous years Christmas events held at the site have provided temporary seasonal work, extending the period over which Willows Activity Farm offers such opportunities across the year. The events also make a significant, but not critical contribution to the finances of Willows Activity Farm.
41. I have found above that if events ceased to be held at the site then venues in Central London would most likely be used instead. It follows that were the Appeals to be dismissed, similar economic benefits would be generated in relation to venues elsewhere. As such they would not be lost from the broader economy. That being so, I attach limited weight to the economic benefits of the development as a consideration in its favour.

Social benefits

42. Corporate clients who have both used and would use the venue see Christmas gatherings as opportunities to bring their large workforces together in a single place, at a single time. This is undoubtedly important for staff morale and

wellbeing, and likely to become more so once social restrictions have been fully lifted. However, in view of my findings above, the same benefits could again be delivered through use of venues elsewhere. I therefore attach limited weight to the social benefits of the development as a consideration in its favour.

Past permissions

43. The planning history has been outlined above. Not including 2019, or the lockdown winter of 2020, approved developments of a similar type have previously taken place over a continuous period of 19 years. The scale of the buildings and the duration of the permissions involved has been subject of some variation. Nonetheless, the period is long enough for related effects to have become an annually established occurrence. Moreover, the effects have been repeatedly considered acceptable enough on balance for successive temporary planning permissions to be granted, thus allowing the effects to become established. This serves to underline the flawed nature of repeat temporary permissions, and, at least with regard to its effects on the Green Belt, also serves to lend further moderate weight in favour of the development.

Summary

44. In summary, the other considerations outlined above, which include the public benefits of the development, attract very significant weight in its favour.

Conditions

45. As the schemes subject of Appeal A and Appeal B are identical, the conditions required are identically applicable to each. In this regard I have imposed standard conditions setting out the time limit for implementation and the approved plans for sake of certainty, and a further condition identifying the time period over which the development is permitted each year. This is necessary in order to precisely limit the extent of harm caused, thus sustaining the balance outlined below.

Planning Balance and Conclusion

46. The development would constitute inappropriate development within the Green Belt, and furthermore cause limited harm to its openness. I attach substantial weight to the overall harm that would be caused to the Green Belt.
47. In addition, the development would cause less than substantial harm to the significance of Tyttenhanger Manor, to which I attach considerable importance and weight. With further reference to paragraph 196 of the Framework, insofar as I have attached very significant weight to the environmental considerations in favour of the development, I am satisfied that the public benefits of the development would outweigh the harm that would be caused to the significance of Tyttenhanger Manor. Though this finding would not be sufficient to satisfy the terms of Policy CS14 of the CS, which requires conservation or enhancement, it is a material consideration which indicates that the development would be acceptable despite this conflict.
48. Taking the above into account, I am satisfied that the combined weight of harm by reason of inappropriateness, and any other harm, is clearly outweighed by the other considerations advanced in favour of the scheme. These other considerations are therefore sufficient to demonstrate the existence of the very special circumstances necessary to justify approval of the development.

Consequently, the development would comply with Policy CS13 of the CS as outlined above, and with the development plan taken as a whole.

49. For the reasons outlined above, I conclude that Appeal A and Appeal B should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1022035-01; 1022035-02; 1022035-03; Alu Hall 4m; Alu Hall 8m; Alu Hall 16m.
- 3) The use hereby permitted shall be for a limited period, being the period between 18 November and 29 December each year. In each such year, the erection of buildings related to the use hereby permitted shall not commence before 18 November, and the use hereby permitted shall be discontinued, and the land returned to its former condition, by 29 December.

Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1022035-01; 1022035-02; 1022035-03; Alu Hall 4m; Alu Hall 8m; Alu Hall 16m.
- 4) The use hereby permitted shall be for a limited period, being the period between 18 November and 29 December each year. In each such year, the erection of buildings related to the use hereby permitted shall not commence before 18 November, and the use hereby permitted shall be discontinued, and the land returned to its former condition, by 29 December.

APPEARANCES

For the Appellant

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