
Appeal Decision

Site visit made on 15 June 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 07 September 2021

Appeal Ref: APP/R3705/W/20/3247898

Heart of England Conference and Events Centre, Meriden Road, Chapel Green, Fillongley, Coventry CV7 8DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by conditions of a planning permission.
 - The appeal is made by Mr Stephen Hammon (Heart of England Promotions) against the decision of North Warwickshire Borough Council.
 - The application is dated 9 May 2019
 - The application Ref: DOC/2019/0052, sought approval of details pursuant to condition 11 of planning permission Ref: PAP/2013/0391 granted on 27 January 2016.
 - The application was refused by notice dated 3 September 2019.
 - The development proposed is the erection of hotel north of (and linked to) existing conference centre; demolition of existing storage building and its adjuncts; formation of new carpark and courtyards; extensions to south and east sides of existing conference centre building.
 - The details for which approval is sought are described as exterior lighting.
-

Decision

1. The appeal is dismissed, and approval of details is refused, namely details submitted pursuant to condition No. 11 of planning permission ref: PAP/2013/0391, dated 27 January 2016.

Procedural Matters

2. Following the submission of this appeal, a revised version of the National Planning Policy Framework (the Framework) has been published. I have considered the proposals in the light of this revised document, having first given the parties an opportunity to comment on its content.
3. I note references to an emerging North Warwickshire Local Plan, which has been found to be sound, subject to modifications. However, I have been unable to give this full weight as the plan has not yet been adopted by the Council.

Main Issues

4. The main issues are:
 - whether the proposed lighting would represent an inappropriate development in the Green Belt and the effect on openness of the Green Belt;
 - the effect of the submitted details upon the setting of Fillongley Old Hall;

- the effect of the submitted details upon the character and appearance of the site; 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

Whether inappropriate development and effect on openness

5. The proposal comprises the provision of a number of different lighting installations following the granting of planning permission for a new hotel. These comprise lighting within the car parks of the previously permitted hotel and some free-standing lighting leading from the site of the hotel and a cluster of other buildings to a lake within the wider appeal site.
6. The proposed lighting would therefore have a readily discernible mass and form. In addition, some would be free standing. Therefore, I consider that they can be accurately described as being buildings. In addition, the lighting is likely to be placed in the appeal site through a process of assembly of components and some construction works are also likely to be needed. This is a process often associated with a building. The National Planning Policy Framework (the Framework), states that the erection of new buildings are generally considered inappropriate.
7. There are some exceptions to this, which are listed in Paragraph 149 of the Framework. However, the appeal scheme does not pertain to the provision of agriculture or forestry facilities; an extension or alteration; replacement building; limited infilling in a village; affordable housing for local community needs; or the redevelopment of previously developed land.
8. The Framework does state that buildings in respect of the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor recreation may not be inappropriate. However, whilst some of the proposed lighting would lead from some buildings to lake, others would be for the illumination of the hotel car park. Therefore, taken as a whole, the proposed lighting scheme would not represent a not inappropriate form of development.
9. The proposed development would result in an increase in the level of built form in the Green Belt owing to the form of the proposed lighting installations. In addition, some of these lighting installations would be located away from the cluster of buildings within the appeal site. This would mean that there would be a discernible increase in the overall level of built form, which would erode the physical sense of openness that is a feature of the Green Belt and the appeal site's locality.
10. In addition, proposed lights, when illuminated, would be viewable from significant distances away. Whilst some would be viewed against the existing buildings and the new hotel building and would therefore not be overly noticeable, others would be located in the area between the buildings and the lake.

11. This is an area that is currently lacking in built form. Therefore, when illuminated, the proposed lighting would create a more urban character and erode the less developed character that is feature of this particular location. In result, the propose lighting would erode the spatial character of openness of the Gren Belt.
12. The purposes of including land in the Green Belt is set out in Paragraph 138 of the Framework. Of particular relevance to this appeal is that that the Framework is clear that the Green Belt should protect the countryside from encroachment. Owing to the proposed lighting installation creating a more urbanised character, particularly in the area near to the lake; the proposed installation would be conflict with this objective.
13. I note the appellant's comments regarding the proposed lighting levels. However, the proposal would result in an overall increase in the level of illumination in an area that generally has limited levels of development. Therefore, the proposal would result in an adverse urbanising effect.
14. I have also had regard to the appellant's suggestion that the proposal should be assessed as an engineering operation. Whilst engineering operations might not be inappropriate to be carried out in the Green Belt, they should retain the openness of the Green Belt and not conflict with the purposes of including land in the Green Belt. This is set out in Paragraph 146 of the Framework.
15. Given that I have previously identified that the proposed development would result in a loss of openness of the Green Belt and would conflict with the purposes of including land in the Green Belt. Therefore, even if I were to assess the lighting under this provision, it would still represent an inappropriate development.
16. I have had regard to the appellant's suggestion that I could impose a condition that would require certain elements of the lighting to be used for different times to other lighting installations. However, the appeal pertains to the consideration of details reserved by the imposition of a condition following the granting of planning permission.
17. Therefore, it would fall outside the scope of this appeal for me to impose additional planning conditions. Therefore, it is incumbent upon me to consider the submitted details as an entire scheme rather than specific elements.
18. I therefore conclude that the proposed lighting would have an adverse effect upon the openness of the Green Belt and would conflict with the purposes of including land within it. The development would therefore conflict with Policy NW12 of the North Warwickshire Local Plan Core Strategy (2014) (the Core Strategy) and the Framework. Amongst other matters, these seek to define the Green Belt and avoid the erection of inappropriate developments; and maintain the openness of the Green Belt; and improve the environmental quality of an area.

Effect on the setting of Fillongley Old Hall

19. The appeal site contains a Grade II Listed Building, which was originally a farm house. For the purposes of this appeal, the significance of this is, in part, derived from the presence of areas of openness in the areas that surround it. In consequence, the setting of the building contributes to its historical character.

20. In this particular instance, the creation of lighting around the listed building would create a more urbanised character. This would therefore erode the more open surroundings that are a feature of the immediate surroundings of the building.
21. The proposed lighting would result in a significant increase in the actual level of built form near to the listed building, which would contribute to an adverse effect upon the listed building's more open and rural setting.
22. In addition, the presence of lighting would serve to create this effect for significant periods of time, including the hours of darkness. Therefore, the surroundings of the listed building would be given in a more urbanised appearance. This would conflict with the building's more rural, and open, setting.
23. Furthermore, although the listed building is near to other structures, including some of a significant age, these are different to the scheme currently before me in that there is a clear physical delineation between the listed building and the other buildings. In result, the presence of buildings within the vicinity is not sufficient to overcome my previous concerns.
24. I therefore conclude that the proposed lighting would have an adverse effect upon the setting of the Listed Building. The development, in this regard, would conflict with Policies NW10, NW12 and NW14 of the Core Strategy; and Policy FNP06 of the Fillongley Neighbourhood Plan (2019) (the Neighbourhood Plan). Amongst other matters, these seek to ensure that developments protect enhance the historic environment; and protect, enhance and respect the local built historic assets.

Character and appearance

25. The appeal site and its immediate surroundings can be characterised as being one with a generally rolling landscape, with extensive woodland cover. This creates a rural, open and tranquil character. Development present within the surrounding area is proportionate towards this character as buildings are typically of more limited proportions and constructed in designs commensurate with the rural surroundings.
26. The proposed development would result in an increase in the overall level of built form within the appeal site. In addition, the form of the proposed development, which would include lighting columns would be of a more modern and urban form. This would conflict with the rural character of the appeal site and its surroundings.
27. In addition, the introduction of lighting on the approach to the site's lake would also, when illuminated, create a character that is more urbanised that would result in the proposed installations being strident.
28. Although there are several trees on the appeal site, the areas in which the proposed lights are proposed to be installed are more open in a nature and lack the same level of screening from trees. In result, the proposed installations would not be well-screened and therefore their form and effects would not be mitigated.
29. I therefore conclude that the proposed installations would have an adverse effect upon the character and appearance of the site. The development, in this

regard, would conflict with the requirements of Policies NW12 and NW14 of the Core Strategy; and Policies FNP01 and FNP02 of the Neighbourhood Plan. Amongst other matters, these seek to ensure that developments improve the appearance and environmental quality of an area; conserve and enhance landscape character; should not have a detrimental effect on the rural landscape; and enhance and conserve the natural environment.

Other considerations

30. The proposed lighting would serve car parks in respect of a previously permitted hotel. In result, the proposed development would support the local economy. This is of some benefit; however, the overall benefits are limited as it has not been demonstrated that the economy would benefit through the provision of lights to the lake. Therefore, I attribute these a limited amount of weight.
31. Although the proposed lighting would have some benefits in terms of improving safety at the development. However, such benefits would be limited as it has not been satisfactorily demonstrated that all of the proposed lighting is necessary in order to achieve this objective. In addition, such benefits would only be experienced by users of the development, which lessens the scope of the benefit. I therefore give this matter a limited amount of weight.
32. I therefore conclude that each of the benefits in favour of the proposal, either individually or collectively, carry a limited amount of weight.

Planning Balance and Conclusion

33. The harm that would occur to the setting of the Listed Building would not be severe and therefore it would be 'less than substantial' within the meaning of the Framework. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
34. The proposed development would generate some economic benefits and some improvements to the safety of the site. However, such benefits by reason of the size of the development would be small scale and limited in impact. In consequence, I can give only these benefits a limited amount of weight.
35. Therefore, when giving significant importance and weight to the special attention I must pay to the desirability of preserving or enhancing the setting of the Listed Building, I find that the harm that would arise from the proposal would not be outweighed by its limited public benefits. Accordingly, there would be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would not have clear and convincing justification.
36. The development plan and Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
37. I have concluded that the appeal scheme would be inappropriate development and would, by definition, harm the Green Belt. In so doing I have found harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.

38. The other considerations I have identified individually and collectively carry a limited weight in favour of the proposal. As such the harm to the Green Belt is not clearly outweighed by the other considerations identified, and therefore the very special circumstances necessary to justify the development do not exist.
39. The proposal would therefore have an adverse effect upon the openness of the Green Belt, the character and appearance of the site and the setting of the Listed Building. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR