



Appeal Decision

Site visit made on 15 February 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2022

Appeal Ref: APP/A1910/W/21/3281296

Former Wagon & Horses Site, London Road, Flamstead AL3 8HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr John McGonagle of Castle Kelly Utilities Ltd against the decision of Dacorum Borough Council.
 - The application Ref 21/01366/ROC, dated 31 March 2021, was refused by notice dated 26 May 2021.
 - The application sought planning permission for change of use of former public house site to Use Class E business without complying with a condition attached to planning permission Ref 21/00202/FUL, dated 28 March 2021.
 - The condition in dispute is No. 3 which states that: *"Notwithstanding the details shown on drawing CK PA 04 A, the hardstanding shall be used only for parking associated with the office use hereby approved. No plant, machinery, commercial equipment or commercial vehicles shall be kept or stored on the site whether on a temporary or permanent basis. There shall be no overnight parking on the site."*
 - The reason given for the condition is: *"In order to ensure that the openness of the Green Belt is preserved, in accordance with Policy CS5 of the Dacorum Core Strategy (2013) and paragraph 146 of the NPPF (2019)."*
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of former public house site to Use Class E business at Former Wagon & Horses Site, London Road, Flamstead, AL3 8HG in accordance with the terms of the application, Ref 21/01366/ROC, dated 31 March 2021, and plans Nos. CK RC 01 Rev A, CK RC 02 rev A, CK PA 03 Rev A and CK PA 04 Rev A.

Preliminary Matter

2. The Council consider that the use of the hardstanding area for the storage of plant, machinery, commercial equipment and commercial vehicles is a separate use to that of the office. However, my consideration is focussed on the effect of the development on the Green Belt, and it is not necessary for me to determine whether or not the storage use is distinct from the office use nor whether the use of the site is wholly within Class E or Sui-Generis.

Main Issue

3. The main issue is whether the development, without the condition in place, is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the 'Framework') and relevant development plan policies.

Reasons

4. Paragraph 150 of the Framework states that a material change in the use of land is not inappropriate in the Green Belt providing it preserves its openness and does not conflict with the purpose of including land within it. Policy CS5 of the Dacorum Core Strategy is consistent with this. As the change of use of the land to a Class E use has already been granted, it is only the effect of removing condition 3 that needs to be considered in terms of the Framework and policy CS5.
5. The site accommodates a two-storey building in its south east corner which acts as the offices for the appellant's business, which is installing and maintaining utility infrastructure. The vast majority of the site is open and hardsurfaced.
6. I visited the site twice on the same day; once mid-afternoon and once in the evening. On both occasions there were only handful of flat bed trucks on the site and a few small diggers, which were of a size such that they could be transported on the backs of the trucks. Also, during the afternoon there were a few cars. There were also a number of traffic signs and barriers, such as might be placed around an excavation of a road or pavement, stored at the rear of the site.
7. Clearly were the office in use by a business which had no commercial vehicles and had no associated plant or equipment, then it is possible that the whole of the hardstanding area would be occupied by cars. Indeed that is allowed for in condition 3. Furthermore, from the plans, it appears that when in use as a pub, much of the site was covered in asphalt and so would most likely have used for customer car parking. As a result, the principle of the parking of vehicles across much of this large open part of the site has been established.
8. The trucks used by the appellant are visibly larger vehicles than cars. However there are few of them, and so their additional impact on the openness of the Green Belt is limited. Likewise the storage of a few diggers and other highway equipment has a very minimal effect on openness. I recognise there would most likely always be plant, equipment or commercial vehicles on the site including overnight, and in this respect the development differs to office parking or pub customer parking. Nonetheless, the limited number of trucks, plant and equipment and the fact that all these items are not built form and are moveable, leads me to consider that their impact on the openness of the Green Belt is limited.
9. Overall the effect of the site being used to accommodate some commercial vehicles, plant and equipment as opposed to car parking is limited. I consider the development preserves the openness of the Green Belt and does not conflict with any of the five purposes of the Green Belt set out in paragraph 138 of the Framework. As such it is not inappropriate development and so accords with policy CS5 and the Framework as set out above. Consequently, condition 3 is unnecessary.

Other Matters

10. The Council suggest the fencing along the front of the site, in combination with the storage of plant and vehicles, harms the openness of the Green Belt. The

fencing however is not part of the development and so I have not taken it into account.

Conditions

11. By allowing this appeal a new planning permission is created. The national Planning Practice Guidance advises that, for clarity, decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect, unless they have already been discharged.
12. As the development has already started it is unnecessary for me to attach the commencement of development condition. As the only other condition on the original consent to be restated relates to the approved plans, I have simply phrased the decision so that it includes reference to those plans.

Conclusion

13. The development accords with the development plan taken as a whole. Therefore, for the reasons given above, and taking account of all other considerations, the appeal is allowed.

Andrew Owen

INSPECTOR