



Appeal Decisions

Site visit made on 14 January 2025

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal A: Ref: APP/P0119/C/24/3341564

Land at Cornflake Cottage, Pennsylvania, Chippenham, SN14 8LB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Joe McAlinden against an enforcement notice issued by South Gloucestershire Council.
- The notice was issued on 22 February 2024.
- The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the property to Holiday Accommodation (a Sui Generis Use).
- The requirement of the notice is to:
 - Permanently cease the use of the property as holiday accommodation (Sui Generis Use)
- The period for compliance with the requirement is 3 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). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B: Ref: APP/P0119/W/24/3345085

Cornflakes, Bull Patch Lane, Cold Ashton, South Gloucestershire, SN14 8LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Joe McAlinden against the decision of South Gloucestershire Council.
- The application Ref is P24/00537/F.
- The development proposed is described as "Change of use of residential dwelling (Class C3) to provide holiday accommodation (sui generis) and additional parking (Revision of P23/03059/F)."

Decisions

Appeal A

1. The appeal is dismissed, 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 as amended.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Since the submission of the appeals the Government has issued a revised National Planning Policy Framework (the Framework). In relation to the main issues in these appeals, the main parties have been given the opportunity to comment on the revisions and I have taken these into account when making my decisions.
4. While there are two appeals, each concerns a different development. The enforcement notice was served against holiday accommodation that was serving

up to eighteen individuals, while the planning appeal concerns a revised scheme with the accommodation serving up to twelve individuals. As a result, I have considered the appeals separately below, with specific reference to the differences between them.

Appeal A - Ground (a), the deemed planning application

Main issues

5. The main issues are:

- Whether or not the development is inappropriate development in the Green Belt,
- The effect of the development on the character and appearance of the area, including that of the Cotswold National Landscape and adjacent Cotswold Way National Trail,
- The effect on highway safety and the convenience of users of the adjacent bridleway,
- The effect on the living conditions of nearby occupiers, with particular regard to noise and disturbance, and
- If the development is inappropriate development 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 or not inappropriate development

6. The scheme comprises the change of use of an existing building. Paragraph 154(h) of the Framework states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include the re-use of buildings, provided that the buildings are of permanent and substantial construction.
7. The building comprises an existing dwelling and is of permanent and substantial construction. It is therefore necessary to consider the effect of the proposal on the openness of the Green Belt. It is clear from the information submitted with the appeal that the use of the property as an 18-bed unit of accommodation has resulted in significant levels of car parking at this location. This parking has taken place outside the garden area of the property, which is not surprising given that there was only a maximum of three existing car parking spaces provided. Despite this being a transient occurrence, the presence of the large number of additional vehicles does, while they are parked, result in a loss of openness to the Green Belt.
8. The enforcement notice also refers to the car parking resulting in conflict with the purpose of the Green Belt of protecting the countryside from encroachment. However, the parking takes place on a tarmacked driveway, which while outside the garden area of the property, is enclosed by low stone walling, which separates

it from the surrounding countryside. As such, I do not agree that it would encroach into the countryside. Nonetheless, given the loss of openness that I have identified, the development would be considered to comprise inappropriate development, when considered against paragraph 154.

9. Additionally, paragraph 155 explains that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where:
 - It would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - There is a demonstrable unmet need for the type of development proposed; and
 - The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.
10. Grey belt is defined within the glossary to the Framework as, *“land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.”*
11. The grey belt definition excludes other land (other than Green Belt) identified at footnote 7 of the Framework, which includes a National Landscape, and for which policies in the Framework provide a strong reason for refusing the development. I have found below that the development would result in substantial harm to the National Landscape and paragraph 189 of the Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads, and National Landscapes. In my view, this provides a strong reason for refusing permission for the development. As such, in this instance, the development does not utilise grey belt land and is therefore considered to be inappropriate development pursuant to paragraph 155 also.
12. Thus, there is conflict with paragraphs 154 and 155 of the Framework. The development also conflicts with policies CS5 and CS34 of the South Gloucestershire Local Plan: Core Strategy (adopted December 2013) (the Core Strategy), and policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (adopted November 2017) (the PSP Plan). Together, and amongst other things, these seek to ensure that development in the Green Belt accords with the Framework and that designated Green Belt is protected from inappropriate development.

Character and appearance

13. The appeal site is located at the end of a vehicular driveway, leading off the nearby A46 road. The driveway serves a small number of residential properties and has the distinct appearance of a rural lane, notwithstanding that it is surfaced in tarmac in proximity to the appeal site. Nonetheless, the enclosure of the lane with low stone walling, the presence of mature vegetation nearby and the views of open agricultural fields result in a location that has a markedly rural appearance

and character. This is reinforced by the low-density nature of the surrounding residential development. The site also lies within the Cotswold National Landscape. The rural aspect and low-key development surrounding the property are key defining features of this designation at this location.

14. The development which the enforcement notice seeks to address has on occasions resulted in the spilling of vehicles onto the lane and from photographic evidence that is before me as part of the appeal, it is clear that a significant number of vehicles has at times been present, indeed one such photograph shows eleven vehicles parked outside of the parking area to the front of the property. This intensity of parking results in significant visual intrusion and is indicative of a development that is incongruous to its location, due to the intensity of the use. The presence of the vehicles parked along this part of the lane would significantly harm, and detract from the appreciation of, the Cotswold National Landscape at this location.
15. The lane that adjoins the property is a bridleway and also comprises part of a National Trail, the Cotswolds Way. These routes would, I am sure, attract a large number of users and the harmful effect of the parking of vehicles along this stretch of the bridleway and trail would certainly diminish their appreciation of these designated routes also.
16. In light of the above, the development is harmful to the character and appearance of the area, including that of the Cotswold National Landscape and adjacent Cotswold Way National Trail. Thus, it conflicts with policies CS1, CS9 and CS34 of the Core Strategy, as well as policies PSP2, PSP28 and PSP40 of the PSP Plan. Together, and amongst other things, these policies seek to ensure development respects, and does not harm, the character of an area and landscape, and that development is of a scale consistent with its rural location.

Highway safety and bridleway users

17. The Enforcement Notice indicates that the Council consider the development to represent a risk to highway safety due to the intensification of the use of the junction of the lane with the A46. The Council further indicates that the alignment of this junction means that vehicles exiting the lane onto the A46 and turning left to the north will need to cross the central marking of the road, moving over the south-bound carriageway, resulting in conflict with south-bound traffic. At this location, the A46 is a busy stretch of road with a high volume of traffic.
18. The use of the property as accommodation for up to eighteen individuals will likely result in a number of vehicles being attracted to the site well in excess of that which would be associated with its previous use as a single dwelling. Again, this is evidenced in photographs that I have been provided with, notwithstanding a contention by the appellant that car sharing occurs. In my view, the increase in the vehicular movements that the development results in would increase the likelihood of unsafe vehicular manoeuvres at the junction with the A46 which, given the volume of traffic that uses this main road, would result in a significant risk to highway safety at this location.
19. In relation to the convenience of users of the right of way, the development has resulted in the parking of a significant number of vehicles on the right of way, as well as occupiers of the property undertaking activities to the tarmacked area on the lane. Both of these occurrences result in the blocking, or at the least

unacceptable obstruction, of the right of way which results in conflict with users. This fails to ensure that the right of way is available and convenient for users.

20. Accordingly, the development results in a deleterious effect on both highway safety and the convenience of users of the adjacent bridleway. Thus, the development conflicts with policy CS1 of the Core Strategy and policies PSP10 and PSP11 of the PSP Plan, which together seek to ensure that development provides appropriate and safe access, as well as safeguarding the use of public rights of way.

Living conditions

21. The use of the property for the use enforced against, i.e. holiday accommodation for up to eighteen people, has the potential to result in significant noise and disturbance resulting from the intensity of the use. The use of the outdoor space associated with the property by this number of people, particularly during periods of fine weather and when groups are in occupation, would result in a significant degree of disturbance to neighbouring properties, which are located in close proximity to the appeal site. This would be due to the number of people that may congregate in proximity to the garden areas of the neighbouring properties, as well as that there is the possibility that groups may result in exuberant and high-spirited behaviour, which would be far beyond what would normally be expected of a residential property. Furthermore, I have been made aware that complaints have been made by local residents in respect of this matter.
22. As a result, I find that the development would have an unacceptable effect on the living conditions of nearby occupiers, with particular regard to noise and disturbance. Accordingly, the development conflicts with policies PSP8 and PSP28 of the PSP Plan, insofar as they seek to ensure development does not create unacceptable living conditions and development is of a scale consistent with its rural location.

Other considerations

23. The appellant asserts that the development is not inappropriate development in the Green Belt and as such, no very special circumstances have been advanced. However, I have had regard to the benefits of the development which would be support to the local economy through an increased offering towards tourist accommodation in the locality.

Conclusion on ground (a)

24. The development is inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I have had regard to the other considerations above. However, these are not sufficient to amount to the very special circumstances necessary to justify the development. Therefore, the development conflicts with policies CS5 and CS34 of the Core Strategy and policy PSP7 of the PSP Plan, insofar as they seek to prevent inappropriate development in the Green Belt. In addition to this, I find that the development would result in harm to the character and appearance of the area, to highway safety and the convenience of users of the right of way, as well as to the living conditions of nearby occupiers, all in conflict with the policies that I identify above.

25. Therefore, for the reasons given and having regard to all matters raised, I conclude that the appeal on ground (a) should fail.

Appeal A - Ground (g)

26. This ground of appeal is that the time given to comply with the notice is too short. The appellant states that additional time should be allowed to take account of the need for a determination to be made on the revised planning application that has been submitted. However, this has now been refused by the Council and is the subject of the linked planning appeal I consider below.
27. In addition, the appellant points to the fact that there are existing bookings for the property, which it is stated cannot be cancelled due to upheaval and disruption. A list of bookings has been provided which shows bookings up until late September 2024. I do not have any details of booking beyond that date. The appellant suggests that it would be a reasonable approach to state that no further bookings are taken, and all existing bookings be allowed to take place.
28. While I am conscious that there may be future bookings taken for the property and that there would be some disruption associated with the cancellation of these, this matter has to be balanced against the genuine harms that I have identified when dealing with the ground (a) appeal above. Allowing the use of the property to continue for a protracted period would result in the harms subsisting. This would include harm to the living conditions of nearby occupiers. As a consequence, I consider that the three-month period for compliance stated in the notice would strike an appropriate balance between allowing some bookings to continue, while giving the appellant notice to cancel any bookings for dates beyond the three months and safeguarding the living conditions of neighbouring occupiers.
29. The appeal on ground (g) therefore fails.

Appeal B – the planning appeal

Main issues

30. The main issues are:
- Whether or not the proposal is inappropriate development in the Green Belt,
 - The effect of the development on the character and appearance of the area, including that of the Cotswold National Landscape and adjacent Cotswold Way National Trail,
 - The effect on highway safety and the convenience of users of the adjacent bridleway,
 - The effect on the living conditions of nearby occupiers, with particular regard to noise and disturbance, and
 - If the proposal is inappropriate development 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 or not inappropriate development

31. The scheme comprises the change of use of an existing building. Paragraph 154(h) of the Framework states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include the re-use of buildings, provided that the buildings are of permanent and substantial construction.
32. The building comprises an existing dwelling and is of permanent and substantial construction. It is therefore necessary to consider the effect of the proposal on the openness of the Green Belt. The application details the use of the property as a 12-bed unit of accommodation. In order to accommodate this, a new parking area to the front of the property and within the existing garden area is part of the scheme. Previously there was provision for two parking spaces within this area, and now an additional four would be provided. This would be far in excess of the parking requirement associated with the use of the property as a dwelling and the additional vehicles parked in this area would be obvious to observers as they pass the site, which many do due to the presence of a right of way.
33. Given the intensive nature of the use, I am also not convinced that all parking would be limited to the area within the garden and consider that there would inevitably be overspill parking taking place on the lane, which would also be obvious. There would thus be, in both visual and spatial terms, a loss of openness of the Green Belt at this location through the parking of vehicles.
34. As I have found above, the parking would take place on a tarmacked driveway, and not on any land that would intrude into the surrounding countryside. As such, I do not agree that it would encroach into the countryside. Nonetheless, given the loss of openness that I have identified, the development comprises inappropriate development further to paragraph 154.
35. Additionally, paragraph 155 explains that the development of homes, commercial and other development in the Green Belt should not be regarded as inappropriate where:
 - It would utilise grey belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan;
 - There is a demonstrable unmet need for the type of development proposed; and
 - The development would be in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework.
36. Grey belt is defined within the glossary to the Framework as, *“land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in paragraph 143. ‘Grey belt’ excludes land where the application of the policies relating to the areas or assets in footnote 7 (other than Green Belt) would provide a strong reason for refusing or restricting development.”*

37. The grey belt definition excludes other land (other than Green Belt) identified at footnote 7 of the Framework, which includes a National Landscape, and for which policies in the Framework provide a strong reason for refusing the development. I have found below that the development, while involving a reduced number of occupants would still result in substantial harm to the National Landscape and paragraph 189 of the Framework sets out that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads, and National Landscapes. In my view, this provides a strong reason for refusing permission for the development. As such, in this instance, the development does not utilise grey belt land and is therefore considered to be inappropriate development pursuant to paragraph 155 also.
38. Thus, there is conflict with paragraphs 154 and 155 of the Framework. The development also conflicts with policies CS5 and CS34 of the South Gloucestershire Local Plan: Core Strategy (adopted December 2013) (the Core Strategy), and policy PSP7 of the South Gloucestershire Local Plan: Policies, Sites and Places Plan (adopted November 2017) (the PSP Plan). Together, and amongst other things, these seek to ensure that development in the Green Belt accords with the Framework and that designated Green Belt is protected from inappropriate development.
39. It has been contended that there is a fallback position of the driveway being permitted development within the curtilage of a dwelling and that it was constructed as permitted development. However, the property is no longer used as a dwelling and thus would not benefit from the permitted development rights associated with that previous use. There can be no permitted development rights associated with the current unauthorised use. The driveway is therefore development that requires planning permission and is a matter that can legitimately be considered in the assessment of the effect of the development on openness. This matter does not therefore dissuade me from my finding above in regard to whether the development is inappropriate development.

Character and appearance

40. The appeal site is located at the end of a vehicular driveway, leading off the nearby A46 road. The driveway serves a small number of residential properties and has the distinct appearance of a rural lane, notwithstanding that it is surfaced in tarmac in proximity to the appeal site. Nonetheless, the enclosure of the lane with low stone walling, the presence of mature vegetation nearby and the views of open agricultural fields result in a location that has a markedly rural appearance and character. This is reinforced by the low-density nature of the surrounding residential development. The appeal site also lies within the Cotswold National Landscape.
41. I have found under consideration of the previous matter that there is likely to be overspill of parking into the lane that serves the property. Given the intensity of this parking, despite the provision of a new parking area within the garden together with the reduced occupancy of the property, I consider that there would still be a significant visual intrusion resulting from parked vehicles. This is particularly so given that it can not be ensured that visitors will car share, as well as the photographic evidence of an excessive amount of vehicles being associated with the use of the property previously, albeit at that time there was a larger number of potential occupants.

42. The lane that adjoins the property is a bridleway and also comprises part of a National Trail, the Cotswolds Way. As I find above, these routes would attract a large number of users. The visual effect of the overspill parking, of the level which I consider to be likely, even with a reduced occupancy of the property, would be an alien and inharmonious feature at this location, indicative of an incongruously intensive form of development. Therefore, in the circumstances of this specific development, the effect of the likely parking of vehicles, in terms of number and frequency, along this stretch of the bridleway and trail would diminish the appreciation of the area for users.
43. In light of the above, I find that the development would be harmful to the character and appearance of the area, including that of the Cotswold National Landscape and adjacent Cotswold Way National Trail. Thus, there is conflict with policies CS1, CS9 and CS34 of the Core Strategy, as well as policies PSP2, PSP28 and PSP40 of the PSP Plan. Together, and amongst other things, these policies seek to ensure development respects, and does not harm, the character of an area and landscape, and that development is of a scale consistent with its rural location.

Highway safety and bridleway users

44. The Council considers the development to represent a risk to highway safety due to the intensification of the use of the junction of the lane with the A46, principally due to the alignment of this junction meaning that vehicles exiting the lane onto the A46 and turning left to the north will need to cross the central marking of the road, moving over the south-bound carriageway, resulting in conflict with south-bound traffic. At this location, the A46 is a busy stretch of road with a high volume of traffic.
45. While the application reduces the number of individuals that would be accommodated at the property, accommodation would still be provided for up to twelve individuals. This would in my view still likely result in a number of vehicles being attracted to the site well in excess of that which would be associated with its previous use as a single dwelling. Notwithstanding the number of occupants now proposed, the increase in the vehicular movements that the development would result in would increase the likelihood of unsafe vehicular manoeuvres at the junction with the A46 which, given the volume of traffic that uses this main road, would result in a significant risk to highway safety at this location.
46. In relation to the convenience of users of the right of way, the parking of vehicles on the right of way is likely to be reduced over the existing situation. However, it remains likely that there would be a significant hindrance to using the right of way effectively. Thus, I am not satisfied that the development would ensure that the right of way is available and convenient for users.
47. Accordingly, there would be harm to the convenience of users of the adjacent bridleway and the development would result in a deleterious effect on highway safety. Thus, the development conflicts with policy CS1 of the Core Strategy and policies PSP10 and PSP11 of the PSP Plan, which together seek to ensure that development provides appropriate and safe access, as well as safeguarding the use of public rights of way.

Living conditions

48. The authorised use of the property is as a dwelling, while the use applied for is for holiday accommodation catering for up to twelve people. The use applied for is different in its character to the usual residential use of the property, in that it is more intensive, and more occupiers would be at the site. The use as holiday accommodation is also more transitory than a permanent residential use, in that the periods of occupation are short. Given that occupants would be on holiday, it is likely that they would be more exuberant in their behaviour, particularly in large groups. The nature of this use is more conducive to there being a greater likelihood of noise and disturbance occurring from the behaviour of occupants and of activities taking place, including the comings and goings of large numbers of people at certain times.
49. I note that the appellant has put forward a number of measures that are intended to address the effect of the intensive use on the neighbouring properties, and these include:
- Clear guidelines relating to use of the property and behaviour expectations within the contract.
 - Informing guests that deposits will be retained if any noise issues arise.
 - Signage around the property informing guests that noise must be kept to a minimum
 - Check in information advising guests of proximity of neighbours and restrictions on use of hot tub
 - Use of a Minut System (LINK) to monitor noise from guests. This sends a text to guests if they are being too loud to warn them and if this is not reduced on the 3rd text, a security guard is sent out.
 - The use of noise limiters on the speakers within the property.
50. These measures while intended to prevent the type of disturbance that would affect neighbours relies to a large degree on a self-policing policy by the occupants. I do not consider that this would result in sufficient safeguards to ensure that the living conditions of neighbours are not detrimentally impacted on. Furthermore, noting the use of the monitoring system, this permits three instances of loud behaviour before any action is taken. Given the proximity of the nearest residential property neighbouring the site, such events occurring even at this frequency, given the potential size of the party occupying the site, would be harmful. Consequently, even when considering the measures that have been employed by the appellant, the use of the property for the proposed use would result in a deleterious effect on the living conditions of neighbours.
51. As a result, I find that the development would have an unacceptable effect on the living conditions of nearby occupiers, with particular regard to noise and disturbance. Accordingly, the development conflicts with policies PSP8 and PSP28 of the PSP Plan, insofar as they seek to ensure development does not create unacceptable living conditions and development is of a scale consistent with its rural location.

Other considerations

52. Similarly to the ground (a) appeal above, the appellant asserts that the development is not inappropriate development in the Green Belt and as such, no very special circumstances have been advanced. However, I have had regard to the benefits of the development which would be support to the local economy through an increased offering towards tourist accommodation in the locality.

Conclusion on planning appeal

53. The development is inappropriate development in the Green Belt. The Framework establishes that substantial weight should be given to any harm to the Green Belt. I have had regard to the other considerations above. However, these are not sufficient to amount to the very special circumstances necessary to justify the development. Therefore, the development conflicts with policies CS5 and CS34 of the Core Strategy and policies PSP7 and PSP27 of the PSP Plan, insofar as they seek to prevent inappropriate development in the Green Belt. In addition to this, I find that the development would result in harm to the character and appearance of the area, to highway safety and the convenience of users of the right of way, as well as to the living conditions of nearby occupiers, all in conflict with the policies that I identify above, and the collective harms are decisive.
54. Therefore, for the reasons given and having regard to all matters raised, I conclude that the appeal should be dismissed.

Overall Conclusion

55. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended). Furthermore, I dismiss the appeal against the refusal to grant planning permission.

Martin Allen

INSPECTOR