
Appeal Decisions

Site visit made on 9 October 2017

by Jessica Graham BA (Hons) PgDipL

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 January 2018

Appeal A: Ref APP/D0121/C/17/3175493

Appeal B: Ref APP/D0121/C/17/3175494

Appeal C: Ref APP/D0121/C/17/3175495

Field in Rocks Lane, Felton, Somerset BS40 9YR

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr J Bishop (Appeal A), Mr P J Coombes (Appeal B) and JH Coombes and Sons (Appeal C) against an enforcement notice issued by North Somerset Council.
- The enforcement notice was issued on 12 April 2017.
- The breach of planning control as alleged in the notice is without planning permission, the change of use of the land from agriculture to a mixed use of agriculture and the use of the land for the parking of vehicles unconnected with the agricultural use of the land.
- The requirements of the notice are
 - cease the use of the land for the parking of vehicles unconnected with the agricultural use of the land
 - remove all vehicles unconnected with the agricultural use from the land.
- The period for compliance with the requirements is 7 days.
- APPEAL A is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
- APPEALS B and C are proceeding on the grounds set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeals on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed in respect of these two Appeals.

Summary of Decisions: the appeals are dismissed and the enforcement notice is upheld

Application for costs

1. An application for costs was made by the Council against the appellants. That application is the subject of a separate Decision Letter of even date.

The appeal on ground (a)

Main issue

2. The main issue in this deemed planning application is whether the change of use is inappropriate development, and if it is, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to constitute the very special circumstances necessary to justify such development.

Whether the development would be inappropriate

3. Paragraph 79 of the National Planning Policy Framework (NPPF) explains that the Government attaches great importance to Green Belts. It states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 80 then goes on to set out the five purposes served by Green Belts.
4. Paragraph 87 of the NPPF explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraphs 89, 90 and 91 of the NPPF list the types of development which may not be inappropriate: car parking for airport customers is not included. The change of use of the land to this function is therefore inappropriate development which is, by definition, harmful to the Green Belt. Paragraph 88 of the NPPF states that substantial weight should be given to any harm to the Green Belt.

Other harm to the Green Belt

5. The Appellants contend that the use of the land for the matters specified in the notice does not seek to undermine any of the five purposes of the Green Belt specified in paragraph 80 of the NPPF and, by reference to Policy DM12 of the North Somerset Sites and Policies Plan Part 1 (NSSPP), accords with the methodology of the local development framework.
6. Policy DM12 states, among other things, that "A material change of use which maintains the openness of the Green Belt is not considered to be inappropriate development provided it does not conflict with the purposes of including land in the Green Belt." In my judgment, the change of use here under consideration does not maintain the openness of the Green Belt. The appeal site is an open and undeveloped field, adjoining commercial premises. Permitting the parking cars on this field, potentially in large numbers and for lengthy periods, would result in the loss of the inherent "openness" of the field .
7. I find that the development is not compatible with national and local policy aims of maintaining openness in the Green Belt. It would therefore conflict with the objectives of NSSPP Policy DM12. It would also constitute encroachment into the countryside, and thus undermine one of the five purposes of the Green Belt, as identified in the NPPF.

Other considerations

8. The undisputed evidence of the Appellants is that Bristol Airport, which is a considerable distance from the nearest rail station, is expanding and will continue to expand such that the existing need to provide parking, beyond that available at the airport itself, will increase over the coming years. In summary, the Appellants' case on ground (a) is that the requirement to meet the parking needs of customers of the airport amounts to "very special circumstances" which would justify inappropriate development in the Green Belt.
9. As the Council points out, airports tend to be located in peripheral locations and have wide catchment areas, such that the proportion of customers who access them by private car is high. It is the responsibility of the airport operators and local authority to promote and encourage public transport links between transport nodes, such as rail and bus stations, so that airports are integrated

into the public transport network. The Bristol Airport Surface Access Strategy (ASAS), a requirement of the Government's transport policy, is a supporting document to the West of England Joint Local Transport Plan 3. It sets out short and long term targets for decreasing the proportion of journeys made to the airport by car, and increasing the proportion made by public transport, for both passengers and airport staff.

10. The evidence of the Council is that some of the measures contained in the ASAS (such as increasing the frequency of the "Bristol Flyer" bus service) have already been implemented, with the proportion of passengers travelling to and from the airport by public transport significantly higher than the initial trajectory: the Airport's Staff Travel Plan is credited with increasing staff use of public transport from 10% to 16%.
11. The Appellants have criticised some of the public transport services as infrequent, and far from comprehensive. That may well be so, and there is no dispute that there remains a need to provide parking spaces for private vehicles. The evidence of the Council is that Bristol Airport has submitted planning applications to bring forward the timing of planned parking provision, which includes planning obligations to contribute further improvements to public transport serving the airport.
12. I note the Appellants' complaint that this will involve the development of 7.8ha of undeveloped pasture land within the Green Belt, and that the policies of the adopted Development Plan effectively provides Bristol Airport with a monopoly over parking provision, by prohibiting the activity of all other operators.
13. I have not been provided with details of the planning applications submitted by Bristol Airport, but neither have I been provided with any evidence that would suggest they will be (or have been) dealt with any differently to any other planning application: that is, assessed against the relevant policies of the Development Plan and national guidance, with any other material considerations weighed in the balance, in the same way as the deemed planning application here under consideration. Nor can I see any evidence that Development Plan policies prohibit the provision of parking by operators other than Bristol Airport. Indeed, it seems to me that Policy DM30 specifically envisages the provision of parking by other operators at sites outside the airport itself.
14. The Appellants have drawn my attention to a statement made by Bristol Airport in support of the planning applications referred to above, which advises that the pattern of passenger growth since planning permission for the Airport's expansion was granted has evolved, and there is an urgent need to increase car parking provision to meet demand. I have no reason to doubt that, but I do not agree with the Appellants' claim that this casts doubt on the validity and relevance of the ASAS. Rather, it highlights the need to address demand through a planned, strategic approach to parking provision to ensure that it is located in the right place, and maximises opportunities for integration with the public transport network. That is what the ASAS and the adopted Development Plan aim to achieve.
15. The Appellants have also drawn my attention to the fact that the appeal site is adjacent to commercial undertakings, and "is sustainable". It is not entirely clear what is meant by "sustainable", but the context suggests it is a reference to the site's location. The appeal site is around 2.5 miles from Bristol Airport,

lies at the end of a narrow single-track lane, and is not readily accessible by public transport. The information before me indicates that customers do not park their own cars here; rather, they leave their cars at an agreed location, and they are then driven to the appeal site, parked, and later returned to the collection point by the operator.

16. The provision of parking at the appeal site does not, then, appear to provide any opportunity to integrate passengers' journeys with the public transport network (such as would be the case if, for example, they parked their cars at a site from which the airport was accessible by bus). Rather, it significantly increases the number of vehicle movements made along the road network around the Airport, to the detriment of the character and function of the area. In my judgment this indicates that the appeal site cannot rightly be described as a "sustainable" location for the purposes of parking, and I share the Council's concern that to permit such a use would undermine the aims of the ASAS and Policy DM24 of the NSSPP.
17. The appellants contend that at present, staff are employed in connection with the parking operation at the appeal site, and if the appeal is dismissed redundancies will result. I have not been provided with any further detail than this, but based on the operations described above, it would seem that the activities of such staff are limited to driving customers' cars to and from the appeal site. There is no suggestion that the business would fold if it were not able to utilise the appeal site, and nothing to indicate that the staff could not be deployed to drive cars to alternative sites. The unevidenced potential for unspecified job losses is not, in my judgment, a consideration which weighs in favour of granting planning permission.

Whether "very special circumstances" exist

18. The development constitutes inappropriate development in the Green Belt, and harms the openness of the Green Belt. It also conflicts with the aims of the ASAS, and Policies DM12 and DM24 of the Development Plan. I have found no material considerations that weigh in the balance against the clear and substantial harm caused, and consequently the "very special circumstances" necessary to justify inappropriate development in the Green Belt do not here exist.

Conclusion on ground (a)

19. For the reasons set out above I conclude that Appeal A on ground (a) should not succeed. I shall refuse to grant planning permission on the deemed application.

The appeals on ground (g)

20. The ground of appeal is that the time given to comply with the requirements of the notice is too short. The notice specifies a compliance period of seven days. The Appeal Statement submitted by the Appellants mistakenly refers to the compliance period as 14 days (at paragraph 5.1), but in any event contends this is insufficient and requests its extension to three months.
21. The Appellants' case is that the nature of the business means there will always be a number of advance bookings that need to be honoured, and it would be unreasonable and unrealistic to expect the Appellants to be able to arrange an alternative site for parking at such short notice; the alternative of cancelling

- advanced bookings at short notice would have a significantly detrimental effect on the business. The requested three month compliance period would enable relocation to a suitable alternative site, and prevent any prejudice to customers, who may be out of the country and difficult to contact.
22. However, the undisputed evidence of the Council is that the Appellants operate airport parking enterprises from other land within the area. The Council has also explained that once it is alerted to a site being used for airport parking, the operator is advised of when their 28 days Permitted Development Rights end and requested to remove vehicles by the end of that period. There is no specific confirmation by the Council that such a request was made to the appellants in respect of this appeal site, but the Appellants, who have had (and taken) the opportunity to comment on the Council's Appeal Statement, have not refuted this point.
23. Nor do the Appellants refute the Council's contention that they have other alternative sites available which could be used: they simply note that the Council has not provided any evidence to support its comments. That is so, but the Appellants have not submitted any evidence to support their argument on ground (g) either, and it is for them to make out their case as to why three months are needed to comply with the requirements of the notice. As discussed above, the nature of the Appellants' operations at the appeal site is that customers do not park their cars themselves but rather drop them off at a reception point; it is then open to the Appellant to park the cars on other land for the agreed duration, provided they are brought back to a pre-arranged collection point at the agreed time.
24. That being so, and in the absence of any argument that the appellant would be unable to utilise other available sites for parking, I do not see that the availability of the appeal site is crucial to honouring advance bookings. Nor do I see how ceasing the use of the appeal site while some customers were out of the country and/or out of contact would prejudice those customers, given that the location at which their cars were parked while they were away could be subject to variation in any event.
25. In summary, I find nothing to justify the requested compliance period of three months, and no reason to doubt the Council's assessment that seven days would be sufficient time for the Appellants to relocate cars parked at the appeal site to other available sites in the area.
26. I therefore conclude that the appeals on ground (g) must fail.

Formal decisions

27. Appeal A, Appeal B and Appeal C are dismissed and the enforcement notice is upheld.

Jessica Graham

INSPECTOR