



Appeal Decision

Site visit made on 10 July 2018

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2018

Appeal Ref: APP/R3705/W/17/3192501

Welcome Break Motorway Services, Smorrall Lane, Corley CV7 8NR

- 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 Welcome Break Group Limited against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2017/0104, dated 28 February 2017, was refused by notice dated 7 November 2017.
 - The development proposed is change of use of land to HGV parking incorporating associated infrastructure and works.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of land to HGV parking incorporating associated infrastructure and works at Welcome Break Motorway Services, Smorrall Lane, Corley CV7 8NR, in accordance with the terms of the application, Ref PAP/2017/0104, dated 28 February 2017, and subject to the schedule of conditions to this decision.

Procedural Matter

2. Since the determination of the application, on 24 July 2018 the Government published a new National Planning Policy Framework (the Framework). The main parties have been given an opportunity to comment on the appeal in light of this. I have taken account of any comments received and considered this appeal in light of the new Framework.

Main Issues

3. The main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt in terms of the Framework and development plan policy;
 - ii) The effect of the development on the openness and purposes of the Green Belt;
 - iii) If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Background

4. The appeal site comprises some 2 hectares of grazing land to the south-east of the northbound section of the Corley Motorway Services Area (MSA), which is located along the M6 motorway. Beyond the southern boundary of Corley MSA, the area including the appeal site is largely countryside, with the exception of some ribbon development along Bennetts Road North, further south of the appeal site. The appeal site is located within the Green Belt.
5. The proposed scheme would provide an additional Heavy Goods Vehicle (HGV) parking area and associated infrastructure to serve Corley MSA. Access into and egress from the appeal site would be via the existing internal road network serving the MSA. The scheme also proposes floodlighting to the parking area and fencing/bunds along its perimeter. Surface water drainage would be to a new balancing pond.

Inappropriate development in the Green Belt

6. In refusing the application the Council has referred to Policy NW3 of the North Warwickshire Core Strategy 2014 (CS). This is a strategic policy which does not directly deal with the management of development in the Green Belt. Consequently, in determining this appeal I have had specific regard to the Green Belt provisions of the Framework.
7. Paragraph 146 of the Framework sets out certain development types which may not be inappropriate development in the Green Belt. These include engineering operations, local transport infrastructure and material changes in the use of land. However, these exceptions only apply where the development preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. For the reasons I explain below, that is not the case in this instance. Accordingly, and since none of the other exceptions listed in the Framework apply in this case, the appeal scheme would be inappropriate development in the Green Belt.

Effect on the openness and purposes of the Green Belt

8. As set out under Paragraph 133 of the Framework the essential characteristics of Green Belts are their openness and their permanence.
9. Openness has a visual and spatial dimension. In this case the appeal site is visually contained by a combination of existing boundary treatments, which would be augmented by additional new planting. These would to a large extent screen the new development, including the parked vehicles. Therefore, the visual impact of the proposed development on the Green Belt would be limited.
10. There are electricity pylons nearby, along with the buildings and infrastructure associated with the Corley MSA, and the M6 Motorway. Despite this extent of urbanisation, the appeal site is absent of any significant development. Consequently, the parking of large vehicles over a sizeable part of the appeal site would introduce a degree of spatial encroachment, which would erode its openness. In this case however, because of the transient nature of vehicles using the site the effect on openness would be less permanent. I therefore attach moderate weight to this effect on openness.

11. Development at the appeal site would result in an area of grazing land being developed upon and encroachment into the countryside. This would therefore conflict with one of the purposes for including land within the Green Belt. This is a further aspect of Green Belt harm.

Other considerations

12. The Framework advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in 'very special circumstances'. It is stated that very special circumstances 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.
13. In this case the appeal scheme is predicated on the need for additional HGV parking spaces at Corley MSA, due to a number of factors. These include the overall growth in HGV traffic nationally and regionally, allied with the need to accommodate this. The evidence in the appellant's submissions supports this, to which I attach moderate weight.
14. Moreover, site specific reasons for additional HGV parking at Corley MSA have been advanced. At present Corley MSA has 60 standard HGV spaces plus 4 available spaces in the long load bay. Based on average traffic flows passing the site the existing level of parking provision falls short of the near 100 spaces required, in accordance with government policy advice¹. I attach substantial weight to this.
15. The appellant's evidence also confirms that the amount of HGVs travelling along the M6 is more than other motorways, and in particular the level of HGV traffic using Corley MSA is proportionally greater than other nearby MSAs. This is due to the location of Corley MSA along the M6, prior to the distribution of traffic onto other motorways. Consequently, it is at a key location where drivers take breaks. This is particularly significant, given that HGV drivers operate within legal driving times, and their stopping times are prescribed. In addition, drivers also need safe and secure facilities which Corley MSA provides. Moreover, the proposed HGV parking area would be close to the Strategic Road Network (SRN). In-line with government policy advice such facilities are more accessible to road users, and as a result, encourage drivers to stop and take a break. The letter from the Road Haulage Association also supports additional parking for site specific reasons at Corley MSA.
16. The appellant's Transport Assessment identifies that there is additional need for HGV parking arising from the high level of HGVs accessing but being unable to park at Corley MSA. At present, when the existing HGV parking area reaches 80% capacity, which occurs during the day and the night, drivers find alternative places to park resulting in unauthorised parking within the site, which causes hazardous incidents and environmental damage. On the other hand, some HGVs circulate the site and leave being unable to find space to park. This can be up to 70 HGVs in a night, which leads to parking on the egress slip road to the site, the hard shoulder, and also the refuge bays on the motorway. These activities raise safety concerns.
17. I acknowledge that some of the above incidents could be reduced by management and enforcement. Nevertheless, this would not address the cause

¹ DfT Circular 02/2013 - Strategic road network and the delivery of sustainable development

of these problems, which is the under provision of HGV parking. Highways England (HE) who are responsible for managing and maintaining the (SRN) in addition to not objecting to the appellant's proposals, also suggest that they may well offer safety benefits by reducing the likelihood of hazardous HGV parking and driver tiredness. It has also been suggested that unauthorised HGV parking is a consequence of driver's unwilling to pay for authorised parking. However, I have limited evidence to support this.

18. From the information before me the appellant has considered utilising the existing areas within Corley MSA more efficiently to increase HGV parking spaces. Whilst an option exists for creating some additional HGV parking at Corley MSA, this has been discounted for highway safety reasons in the opinion of the appellant's transport consultants. This would also limit the option for creating additional parking at the appeal site in combination with a smaller new parking area. The appellant has also reviewed two alternative parking schemes submitted by third parties and highlighted their shortcomings.
19. For the above reasons, I am satisfied that the appellant has made reasonable endeavours in respect of considering alternative HGV parking arrangements. I also understand that the Council is commissioning a Borough wide survey in relation to HGV parking. However, as the findings of this are not before me at the time of deciding this appeal, I attach no weight to it.
20. The proposed requirement for the additional HGV parking spaces is based on the present and future HGV parking needs of Corley MSA, along with the number of vehicles not being able to park and leaving the site. In the absence of any strong technical evidence to the contrary, I accept the appellant's justification for the proposed level of HGV parking spaces. I also note that the Council has not disputed the site-specific shortfall of HGV parking spaces at Corley MSA.
21. Furthermore, Paragraph 107 of the Framework says that planning decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. In light of this and for the above reasons, I attach considerable weight to the site specific requirement to provide additional HGV parking at Corley MSA.
22. A new MSA at Junction 1, M6 (Rugby) has been approved. However, from the limited information I have in respect of this, its associated requirement for HGV parking spaces is based on the need along that particular part of the motorway and area. In any event, I have no strong evidence to demonstrate that the MSA at Rugby undermines the appellant's detailed case for the proposed additional HGV parking at the appeal site. As such, I attach limited weight to this in the overall balance.
23. The appellant and third parties have referred me to other HGV parking facilities in the area, in support of their respective cases. Nevertheless, given my findings in respect of the specific shortfall and need for HGV parking at Corley MSA, I attach limited weight to such facilities.

Other Matters

24. I have noted concerns raised by third parties in respect of future buildings being provided on the appeal site for driver facilities. However, the appellant

- has confirmed that HGV drivers using the proposed parking area would utilise the existing facilities. Moreover, any future proposals for development would have to be considered on their merits.
25. Other environmental concerns have also been raised by third parties. Based on the evidence submitted by the appellant and in the absence of any technical evidence to the contrary, I am satisfied that the proposed development would not have any significant impact in respects of noise, light or emission pollution on the living conditions of nearby neighbours. Nor would it cause significant harm to matters of bio-diversity, wildlife and the local water environment, subject to conditions.
26. The submitted scheme is accompanied by a Road Safety Audit and there are no objections from Warwickshire County Council Highways or Highways England. I am therefore satisfied that the proposal raises no specific highway safety issues.
27. I acknowledge that the appeal site acts as part of a buffer between the Corley MSA and dwellings along Bennetts Road North and that the development would encroach into part of this. However, a certain buffer area would still be retained and a large extent of the proposed development would be screened by the existing and proposed landscaping. Some distant views of the appeal site from the dwellings along Bennetts Road North would be possible. Nevertheless such distant views would not result in any appreciable harm to outlook.
28. In the absence of any strong evidence, I am not persuaded that the security of nearby neighbours would be compromised by the proposed development. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.
29. I have determined the appeal proposal on its merits. As such, the refusal of a previous application² for a smaller HGV parking area in a similar location to the appeal site does not alter my findings on the main issues.
30. Concerns relating to the lack of maintenance and protection of existing landscaping, littering and inappropriate use of adjacent areas in association with the Corley MSA site are separate to the determination of this appeal.
31. There is a possibility of an existing public footpath which crosses the appeal site being diverted. However, I have limited details in respect of this. In any event the grant of planning permission does not of itself authorise any obstruction of a public footpath and any diversion of it would be dealt with through a separate process.

The Green Belt balance

32. The development would constitute inappropriate development and conflict with the purposes of including land within the Green Belt. Moreover, it harms the Green Belt by way of loss of openness. The Framework requires substantial weight to be given to any harm to the Green Belt.
33. Having considered all other considerations in support of the development, in particular the under provision of HGV parking at Corley MSA and the strong

² PAP/2008/0658 – Proposed extension to Motorway Service Area to create additional HGV parking facilities including amenity block and associated landscape proposals.

demand for HGV parking at this particular location. I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, I consider that very special circumstances exist which justify the development. Therefore the proposed development does not conflict the Green Belt provisions of the Framework.

Conditions

34. I have considered the conditions put forward by the Council in the light of the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings and plans as this provides certainty.
35. Conditions relating to landscaping and trees are necessary in the interests of the appearance of the area. Conditions relating to the proposed fencing and bunds, the Management Plan for the HGV parking area, its hours of use, lighting and control over its construction are all necessary in the interests of the living conditions of neighbours. Conditions 3 and 4 are necessary in the interests of flood risk and drainage. A condition requiring Biodiversity Offsetting measures is necessary in the interests of biodiversity enhancements. Condition 6 is necessary to safeguard any archaeological interests of the site. Where needed, and in the interests of clarity and precision, I have altered the suggested conditions to better reflect the relevant guidance.
36. Conditions 4, 5, 6 and 7, which prevent any development approved by the planning permission from commencing until they have been complied with, are considered fundamental to the development hereby approved. It is necessary for them to take the form of 'pre-commencement' conditions in order to have their intended effect.

Conclusion

37. For the reasons given above, I conclude that the appeal is allowed.

M Aqbal

INSPECTOR

SCHEDULE OF CONDITIONS

- 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 and documents: CMSA-BWB-GEN-XX-DR-TR-107 S2 REV P1; CMSA-BWB-GEN-XX-DR-TR-106 S2 REV P1; CMSA-BWB-HLG-XX-M2-C-1300 S8 REV P1; Landscape and Visual Impact Appraisal Doc ref NO. 1735-17-RP01 dated 24 February 2017, including the Appendices with Landscape Mitigation Plan - 1735-17-03B and Illustrative Landscape Sections plan - 1735-17-04, received 1 March 2017, to CMSA-BWB-HGR-XX-DR-EN-202 S2 REV P1; CMSA-BWB-GEN-XX-RP-TR-0002_RSA1-DTR (Road Safety Audit Stage 1); CMSA-BWB-GEN-XX-RP-TR-0001_RSA1- (Road Safety Audit Stage 1); CMSA-BWB-HGR-XX-DR-EN-201-S2 REV P2 (Surface water strategy) ; CMSA-BWB-HGR-XX-DR-EN-202-S2 REV P1 (Pond Cross Section), received 31 May 2017, and to CMSA-BWB-GEN-XX-DR-TR-105 S2 REV S2; CMSA-BWB-GEN-XX-DR-TR-110 S2 REV P2, received 4 August 2017 and Proposed HGV Parking Extension Lighting Layout – CMSA-BWB-HLG-XX-M2-C300 S8 REV P1.
- 3) The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (FRA) CMSA-BWB-EWE-XX-RP-EN-0001_FRA, Sustainable Drainage Statement CMSA-BWB-HDG-XX-RP-RP-0002_SDS, and Surface Water Strategy CMSA- BWB-HGR-XX-DR-EN-201_Surface Water Strategy. In particular the development should be carried out according to the following mitigation measures detailed:
 - Limit the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm to 6.6 l/s for the site.
 - Provide provision of surface water attenuation storage as stated within the FRA of 749m³ and/ or in accordance with 'Science Report SC030219 Rainfall Management for Developments'. The storage pond should be designed in accordance with plan CMSA-BWB-HGR-XX-DR-202_Pond Cross Sections.
 - Surface water is to be provided via a minimum of two trains of treatment using the proposed above ground drainage features within the drainage design.

The mitigation measures shall be fully implemented prior to use of the development and subsequently in accordance with the timing and phasing arrangements embodied within the scheme.

- 4) The development hereby approved shall not take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority in consultation with the Local Lead Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall include:

- Infiltration testing in accordance with the BRE 365 guidance to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site.
 - Provide a plan for the management of exceedance flows, including routings.
 - Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including levels, gully locations and outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.
 - Provide and implement a maintenance plan to the local planning authority giving details on how surface water systems shall be maintained and managed for the life time of the development. The name of the party responsible, including contact name and details shall be provided to the local planning authority.
- 5) The development hereby approved shall not commence until details of the earth bunds and acoustic close board type fence as shown as part of the Landscape and Visual Impact Appraisal Doc ref NO. 1735-17-RP01 dated 24 February 2017, including the Appendices with Landscape Mitigation Plan - 1735-17-03B and Illustrative Landscape Sections plan - 1735-17-04, received 1 March 2017 have been submitted to and approved in writing by the local planning authority. Thereafter the approved earth bund and acoustic fence shall be implemented before the development is brought into use and retained for the life of the development.
- 6) The development hereby approved shall not commence until:
- a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work shall be submitted to and approved in writing by the local planning authority.
 - b) the programme of archaeological evaluative work and associated post-excavation analysis, report production and archive deposition detailed within the approved WSI shall be undertaken. A report detailing the results of this fieldwork shall be submitted to the planning authority.
 - c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the local planning authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.
- The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.
- 7) The development hereby approved shall not commence until a Tree Survey to fully assess the trees that are firstly upon the site and secondly those that will be affected by the development of the site as per the specifications provided with the submitted application has been submitted to and approved in writing by the local planning authority. The survey should be undertaken in accordance with BS5837:2012 Trees in relation

- to design, demolition and construction – Recommendations. Thereafter the development shall be undertaken in accordance with the approved survey details.
- 8) The development hereby approved shall not be brought into use until a biodiversity offsetting scheme shall be submitted to and approved in writing by the local planning authority. The Biodiversity Offsetting scheme shall provide appropriate compensation for a Biodiversity Impact Assessment score of 0.57 Biodiversity Units. The scheme shall be sited on land owned by the applicant adjacent to the Corley Motorway Service Station. The approved scheme shall be implemented in the next available planting season and maintained in accordance with the approved written scheme.
 - 9) The development hereby approved shall not be brought into use until a Management Plan has been submitted to and approved in writing by the local planning authority. The Management Plan shall control the operation of the approved HGV parking area and specifically include measures to address the following matters:
 - i) Achieving and maintaining the 'Park Mark' safer parking award standard as assessed by Warwickshire Police in respect of the security of the parking area;
 - ii) Measures to ensure that the approved HGV parking area is closed between 1800 hours on Friday evening and 0800 hours on the following Monday morning;
 - iii) Use of floodlighting;
 - iv) Details of the proposed CCTV and how this will be monitored;
 - v) Access for emergency vehicles;
 - vi) Measures and timetable for the remarking of the existing HGV parking area on the northbound side of Corley MSA.
 - vii) A contact for complaints or concerns about the use and operation of the HGV parking area to be reported to.
 - 10) The development hereby approved shall not be brought into use until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, have been submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.
 - 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 12) The HGV parking area hereby approved shall only be open for use between 0800 hours on Monday until 1800 hours on Friday and not at any other time.
 - 13) The lighting scheme shall only be controlled by light sensors and the lighting shall be directed downwards at all times.

- 14) Construction works associated with the development hereby approved shall take place only between 0700 and 1900 on Monday to Friday, 0800 and 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.