



Appeal Decision

Site Visit made on 2 November 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/Q4625/W/21/3279340

IAC Group Ltd, Unit 1-2 Progress Way, Birmingham B40 1AB

- 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 IAC Group Limited against the decision of Solihull Metropolitan Borough Council.
 - The application Ref PL/2021/00189/PPFL, dated 18 January 2021, was refused by notice dated 21 May 2021.
 - The development proposed is formation of additional car parking to serve Units A and B at Prologis Park Birmingham Interchange with associated earthworks, engineering, landscaping and sustainable urban drainage systems.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For clarity, the site address in the heading above is taken from the appellant's appeal form as the original planning application form contained only the grid reference. The description above is taken from the appellant's planning application form, however it was amended during the determination period to incorporate reference to the number of car parking spaces proposed. This was stated as 'up to 388 No.' on the Council's decision notice. Revised plans were submitted during the course of the Council's determination of the application which reduced the number of car parking spaces to a total of 385 spaces. Although no formal agreement to the change in description has been provided, I have had regard to this reduced number in this decision and consider that no party has been prejudiced as a result.
3. The site was granted outline planning permission in 2016 for an employment development (Council Ref PL/2016/02001/PPOL), with all matters reserved except access ('the 2016 permission'). Reserved matters were subsequently approved and have been implemented, including the erection of Unit A and B, together with associated parking and landscaping. Condition 26 on the 2016 permission requires that public access is allowed and maintained in perpetuity to a landscape buffer/open space, comprising the western and southern parts of the site ('the landscape buffer'). I note that access is closed for one day each year to prevent prescriptive rights.
4. I have been made aware of an engineering operation that has taken place adjacent to Unit A, which I observed on my site visit, and has been enclosed by an area of fencing. The appellant's agent has advised that the land freeholder is liaising with the Council's enforcement officers to discuss how the planning

position for this will be resolved. That is a separate matter which has no bearing on the appeal before me.

Main Issues

5. It is agreed between the main parties that the proposal as a whole would be inappropriate development in the Green Belt as defined in Solihull Local Plan (December 2013) (the 'Local Plan') and the revised National Planning Policy Framework (2021) (the 'Framework'). That is because the proposal would have a greater impact on openness of the Green Belt than were the development not to take place, and consequently would not meet any of the policy exceptions to inappropriate development. I agree.
6. Accordingly, the main issues are:
 - the effect of the proposal on the openness of the Green Belt and the purposes of including land within it; and,
 - 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 required to justify the development.

Reasons

7. The Government attaches great importance to Green Belts. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Policy P17 of the Local Plan supports national policy and includes additional provisions.

Openness and Green Belt Purposes

8. Openness is an essential characteristic of the Green Belt that has both spatial and visual aspects. The proposed additional parking comprises three areas, of which only 'Area 2' and 'Area 3' are within the landscape buffer and Green Belt. Area 2 is immediately adjacent to the side of Unit A. Area 3 is to the front of Unit A and part of Unit B, separated by other parking and the retained swale.
9. The proposed car parking areas would replace soft landscaping within the landscape buffer with hard surfacing suitable for parking of 291 cars. The vehicles would not be permanent fixtures and the extent to which the car park would be used would inevitably vary. Nonetheless, this change in surfacing and the potential presence of a not insignificant number of cars would result in a spatial reduction in openness of the Green Belt on land between Unit A and Coleshill Heath Road, as well as between Units A and B and Blackfirs Lane.
10. The appellant states that the proposed car parking would encroach on approximately 0.59 hectares of the existing landscaping. That is broadly consistent with the loss of 5,165 sqm of open land to car parking, as referenced by the Council. The appellant refers to this as a loss of 14 per cent of the existing open land within the appeal site. They also separately refer to it as a 16 per cent loss. Whether 14 or 16 per cent, a reduction of that order is not an insignificant reduction on what is already a relatively constrained site.
11. The extent to which the reduction in Green Belt openness would be perceived from Blackfirs Lane would be limited due to the presence of the retained portion of the landscape bund. Additional landscaping to the side of the

proposed parking adjacent to Unit A would help screen parking from the open space, particularly in the longer term once planting had matured. However, even with additional landscaping, the physical reduction in openness would be readily perceptible from footpaths within the landscape buffer, and in glimpsed views from the pavement along Coleshill Heath Road. It would also be evident from views into the site from Progress Way. There would consequently be a notable reduction in openness both spatially and visually. Therefore, the harm to openness would be moderate.

12. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. One of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. The proposal would extend the boundary of the existing development towards Coleshill Heath Road and Blackfirs Lane. Consequently, it would result in encroachment into the countryside and conflict with the fundamental aim of Green Belt policy.
13. It would not completely close the gap between the site and adjacent roads, and some landscaping would be retained as a buffer. However, the buffer would be particularly narrow between the development and Blackfirs Lane. The proposal would occupy a not insignificant proportion of land that is currently open, and serves a function in retaining a gap between built development immediately to the north and south. Consequently, the harm to Green Belt purposes would be moderate.

Other Harms

14. Whilst not initially referenced in the Council's reason for refusal, the Council's evidence highlights that the proposal would result in the loss of part of the landscape buffer that the 2016 permission required to be retained open for public access in perpetuity. The appellant has responded to this in their final comments and confirms this is not a matter in dispute between the main parties. The committee report for that permission concluded that, combined with its significant contribution to sustainable economic development, the provision of public access to previously private land formed part of the very special circumstances necessary to justify its approval.
15. At the time of my mid morning, weekday site visit, the open space did not appear to be in use by members of the public. However, the Council reports having seen the space in use. Representations submitted by the local community to this appeal attest to the high value that they place on access to this space. There is no robust evidence before me to suggest otherwise. The main parties agree that the proposals would achieve qualitative improvements to landscaping within the area of open space, including more substantial planting along the boundary with Unit A and planting of 17 no. semi-mature trees.
16. However, there is also value in the quantity of land currently available for public use, and the sense of space that is perceived from within it. Whilst the existing footpath within the landscape buffer is shown as being retained, the proposal would result in the car park boundary alongside Unit A being much closer to the footpath. Although additional landscaping is proposed for screening which, once matured, would assist in creating a less urban feel, the loss of around 14 per cent of the existing space would amount to a noticeable reduction in the land available for public enjoyment.

17. Although privately owned, the land is required to be made available for public use. Paragraph 99 of the Framework highlights the importance of retaining existing open space unless certain criteria are met. It has not been demonstrated that the space is surplus to requirements, nor that it would be replaced by equivalent or better provision in terms of quality and quantity in a suitable location. Equally the proposal is not for alternative sports or recreation provision, the benefits of which would clearly outweigh the loss. The proposed development would therefore be contrary to the provisions of paragraph 99.
18. Concluding on this matter, the harm due to a reduction in publicly accessible open space would be moderate. I afford this considerable weight given that the provision of this open space and its retention for public access, contributed to the very special circumstances case for the 2016 permission.

Other Considerations

19. The proposal would make a significant contribution to the local economy by enabling IAC to operate at full capacity and support around 1,140 jobs (full time equivalent). There is agreement between the main parties on this matter. The appellant highlights the role of the business as part of a globally competitive automotive sector within the West Midlands, supported by the relevant Strategic Economic Plan and Local Industrial Strategy. I note also the importance of it being located sufficiently close to Jaguar Land Rover ('JLR'), to fulfil its role as one of the supply chain businesses, enabling IAC to meet their 'just-in-time' delivery schedule. This is in line with wider aspirations of the Local Plan in respect of JLR. This all serves to support the potential for the appeal scheme to make a substantial contribution to the local economy, from expansion of an established business, to which I agree significant weight should be applied.
20. In order to merit the additional support afforded by Local Plan Policy P17, it must also be demonstrated that the proposal would secure 'appropriate mitigation'. That term is not defined in the Local Plan and therefore must be considered on a case by case basis. The Council has concluded that the combined qualitative landscape and ecological benefits of this appeal scheme should be afforded only limited positive weight. This appears to take account of the reduction in open space that was itself provided to support the very special circumstances case for the industrial buildings now on site.
21. However, in respect of the biodiversity enhancements alone, a net biodiversity gain of 42 per cent as a minimum is agreed between the parties, and represents a considerable increase. Biodiversity gain is supported by paragraph 174 of the Framework and I afford this enhancement significant weight. I note that the Council's planning officer report for the 'proposed Motorway Service Area' at Hampton in Arden (Ref PL/2015/51409/PPOL) concluded the biodiversity net gain for that scheme, of a similar percentage, attracted substantial positive weight.
22. I have had regard to evidence in respect of the 'Land at Damson Parkway' scheme that was granted permission in 2014 (Ref PL/2014/00115/FULM), although the full circumstances of that proposal are not before me. I recognise the similarly significant value of this appeal business to the local economy and employment. However, contrary to that scheme and as reasoned above, the loss of open space available for public use would erode the Green Belt justification for the 2016 permission.

23. Consequently, I find that the proposed enhancements to landscape quality and biodiversity net gain alone, are not sufficient to appropriately mitigate the 'other harm' resulting from a notable reduction in the quantity of publicly accessible open space, on what is already a relatively constrained site. Accordingly, and noting the High Court judgement¹ relating to the application of Policy P17 of the Local Plan, the proposal would not be afforded additional support under this policy and would not accord with Policy P17 as a whole.
24. I accept that the proximity of the appeal site to the appellant's existing operation at Elmdon, as well as to a main client, JLR, was a key reason for IAC locating the business here. The Transport Statement for this appeal indicates that the scale of parking proposed is not more than is necessary to meet the needs of the buildings on site, allowing a small amount of headroom to minimise the potential for overspill parking. I note that four sites outside of the Green Belt were considered as possible alternative locations for provision of the required car parking and I accept the reasons that these have been discounted as feasible alternatives to the appeal scheme.
25. I acknowledge that there may be an opportunity cost if the existing level of parking results in the appellant being unable to operate the existing buildings at full capacity or chose to re-locate outside of the area. However, there is a lack of consideration of whether part of the parking requirement could be split across one or more alternative sites in the locality. Moreover, I am not satisfied that it has been adequately demonstrated that more sustainable alternatives have been appropriately considered. I accept there may be challenges associated with staff travelling at night and a lack of public transport at those times. Nevertheless, aside from a general reference to encouraging staff to use sustainable travel modes as far as possible, evidence of having given serious consideration to alternative transport solutions, such as staff shuttle buses or measures to encourage greater car sharing, is lacking.
26. Accordingly, I attribute only limited weight to the lack of alternative car park sites outside of the Green Belt. Given the lack of evidence in this respect, I cannot be satisfied that the opportunity cost is fully dependent on the outcome of this appeal, there potentially being alternative parking or transport arrangements that could be put in place to avoid or mitigate it. Therefore, the weight applied to the potential opportunity cost is similarly limited.
27. The absence of objections from technical consultees, and absence of harm in respect of matters such as the effect on outlook for residents of Blackfirs Lane, flood risk, drainage, and noise, are neutral considerations and do not weigh in favour of the appeal scheme.

The Green Belt Balancing Exercise

28. In accordance with the Framework, it is accepted that the appeal would be inappropriate development in the Green Belt. The proposal would also result in a permanent loss of Green Belt openness and harm to Green Belt purposes. In accordance with paragraph 148 of the Framework I have attributed substantial weight to these harms. The proposal would also result in moderate harm due to the loss of publicly accessible open space. As reasoned above I afford substantial weight to this harm.

¹ *Pertemps Investments Limited v Secretary of State for Communities and Local Government* [2015] EWHC 2308 (Admin)

29. Significant weight is afforded to the economic benefits of the proposal and the biodiversity net gain. Given the lack of supporting evidence, the appellant's indication as to the absence of suitable alternative sites is given only limited weight as is the potential opportunity cost to the business of not expanding the parking as proposed. Whilst this is a finely balanced case, for very special circumstances to exist, the other considerations would need to clearly outweigh the substantial harm to the Green Belt by reason of the inappropriateness, openness and purposes of the Green Belt, along with moderate harm from loss of publicly accessible open space.
30. In this instance, despite the merits of the proposal, these would not clearly outweigh the conflict with the development plan and the Framework. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

31. For the reasons given above I conclude that the appeal should be dismissed.

Rachel Hall

INSPECTOR