



Appeal Decision

Hearing held on 17 January 2024

Site visit made on 18 January 2024

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/R3705/W/23/3327296

Land west of Hams Hall roundabout and south of Marsh Lane, Curdworth, B76 0AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Caesarea Development Holdings Limited against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2020/0295, dated 12 June 2020, was refused by notice dated 7 February 2023.
 - The development proposed is 'outline application for an overnight truck stop comprising 200 HGV spaces and associated facilities including fuel refuelling station, amenities building, electric vehicle charging points, staff and other car parking, and landscaping. Including details of vehicular access from Marsh Lane, all other matters reserved'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. In advance of the hearing, I invited the Council and the appellant to comment on whether the updated Framework has any implications for the appeal. Both parties submitted statements indicating that, other than in relation to minor typographical changes, the revised Framework does not have any implications for the case. I see no reason to disagree with that assessment. The appeal has been determined against the provisions of the updated Framework.
3. The appeal seeks outline planning permission with all matters reserved for later approval, apart from the means of access. A Landscape Masterplan (Drawing No 8843-L-02 Revision A) accompanied the application. This shows the location of the new roundabout access into the site, the re-alignment of Marsh Lane, the general layout of the internal access road and parking areas and the broad location of proposed landscaping. I have treated that plan as an indicative guide to how the site might be developed, were the appeal to succeed.
4. The description of development in the banner heading above is taken from the planning application form. In their appeal statement, and as explained at the hearing, the appellant proposed that the description be amended to insert 'up to' before '200 HGV spaces'. The appellant considers that as the proposal is in outline only, the final number of parking spaces is unlikely to be precisely 200

and that the amendment proposed would enable any variation in numbers to be reflected at the reserved matters stage.

5. At the hearing, I gave the Council and the appellant an opportunity to comment on the proposed change to the description of development. After due consideration of the points made, I made a ruling on this request at the hearing, and the explanation that I gave is confirmed below.
6. My conclusion is that although the scale of Heavy Goods Vehicle (HGV) parking could be potentially less under the revised description, determining the appeal in accordance with that description would lead to procedural unfairness. Firstly, based on the revised description, the Council may have arrived at a different set of considerations in the overall planning balance. Secondly, third parties would be prejudiced by not having had an opportunity to comment on the revised scale of parking provision. The appeal has therefore been determined based on the description of the proposed development set out in the banner heading above.
7. At the hearing, the effect of the proposal on the form and character of the area was dealt with as an 'other consideration'. For clarity, and in response to discussion at the hearing and from what I saw at my site visit, I have identified the effect on form and character having particular regard to the effect on landscape character, as a main issue in this decision.
8. An Environmental Impact Assessment (EIA) Screening Direction dated 11 December 2023 confirms that EIA is not required for the appeal proposal.

Main Issues

9. The main issues in this case are:
 - Whether or not the proposed development would be inappropriate development in the Green Belt and if inappropriate, the effect on openness and on Green Belt purposes;
 - The effect on the form and character of the area, having particular regard to the effect on landscape character;
 - The effect on the living conditions of nearby residents; and
 - Whether or not any harm arising from inappropriateness, and any other harm, would be clearly outweighed by other considerations, including any public benefits, so as to amount to the very special circumstances necessary to justify it.

Reasons

10. The appeal site is in the Green Belt and comprises two fields which are currently in agricultural use, located to the north and south of Marsh Lane and covering approximately 6 hectares and 3 hectares respectively. The proposed truck stop would be located on the northern field, with the southern field proposed as a biodiversity enhancement area.
11. The northern field lies within a larger parcel of land demarcated by the A446 Lichfield Road dual carriageway to the east, the M42 and M6 motorways (the 'M42/M6 corridor') to the west, and Marsh Lane to the south. The M42 Junction 9 (J9) roundabout is located approximately 0.8 kilometres to the north, and the

A446/Marsh Lane/Faraday Avenue roundabout ('the Hams Hall roundabout') adjoining the eastern boundary serves the Hams Hall Distribution Park approximately 0.6 km to the east. The HS2 route lies to the east of the A446, and works are ongoing. The edge of the built-up area of Curdworth village to the west is separated from the northern field by the M42/M6 corridor and small grazing paddocks.

12. Due to the low boundary hedges and small number of hedgerow trees, the northern field is open to view from both Marsh Lane and when approaching in a northerly direction from the A446 to the south of the Hams Hall roundabout. Ground levels rise towards the northern boundary which is demarcated by compound style fencing along part of its length, with the remainder open apart from a few trees.

Whether or not inappropriate development and the effect on openness and purposes

13. Policy LP3 of the North Warwickshire Local Plan 2021 (LP) seeks to protect the Green Belt. In stating that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, Policy LP3 is consistent with Green Belt policy in the Framework.
14. The truck stop site to the north of Marsh Lane would be developed with a new roundabout access, an amenity building, a fuel station kiosk and canopy, gatehouse, hard surfacing, lighting columns, signage and perimeter fencing, together with parked HGVs and cars.
15. The construction of new buildings is inappropriate development in the Green Belt and the proposal would not fall within any of the exceptions listed at paragraph 154 of the Framework. Paragraph 155 lists six further forms of development that would not be inappropriate, provided that they would preserve openness and would not conflict with Green Belt purposes.
16. Within that list is 'local transport infrastructure which can demonstrate a requirement for a Green Belt location'. The Council does not dispute that the proposal would constitute 'transport infrastructure', and I see no reason to disagree with that assessment. I therefore turn next to the matter of whether or not the proposal would be 'local'.
17. The appeal site is in close proximity to the M6 and M42 motorways on the Strategic Road Network, and the A446. The scale of HGV parking proposed is based on traffic growth on those roads over a 10 year period. The National Survey of Lorry Parking¹ identifies seven national 'hotspots' where parking shortages are most pronounced, including Hams Hall to Dordon within which the appeal site is located. The proposal would seek to address this national need for HGV parking whilst also addressing some of the issues caused by roadside HGV parking in the vicinity of Hams Hall Distribution Park.
18. My conclusion, based on the evidence in this case, is that the proposed truck stop would help to meet strategic transport needs. For this reason, it would not be 'local' transport infrastructure and it would be inappropriate development in the Green Belt.

¹ AECOM and Department for Transport National Survey of Lorry Parking 2017 (updated September 2022).

19. Due to the significant and permanent boundaries formed by the highway infrastructure surrounding the appeal site as a whole, the appellant contends that it makes a limited contribution to Green Belt openness. It is argued that the site's context and the nature of existing views would limit the degree of contrast and change that will be experienced, and the appellant's Landscape Statement concludes that the proposal would have no more than a limited and localised effect on Green Belt openness, confined to limited stretches of roads around the site.
20. The biodiversity proposals for the southern field include tree and grassland planting, the parameters for which are shown on the Landscape Masterplan. These natural features would be seen in the context of the surrounding landscape. Since there would be no built development, engineering features or hard surfacing on this part of the appeal site, the proposal would not lead to any reduction in the openness of the Green Belt overall. The biodiversity proposals would also not conflict with any of the five purposes of including land within the Green Belt.
21. The proposed buildings on the northern field would have a small footprint and would be single storey in height and approximately 64% of the truck stop site would comprise open parking areas, landscaping and planting. There would be a robust framework of new native woodland, tree and hedge planting on the site boundaries. Nevertheless, the proposed development would result in buildings, structures, hard surfacing, fencing, lighting and parked HGVs and cars on a site where none existed previously which would result in a significant loss of Green Belt openness.
22. The level of activity, such as traffic generation, can also be a factor in assessing the impact of development on Green Belt openness. The appeal site is set within the context of surrounding road corridors which generate significant traffic movements along the M6, M42, A446 and at the M42/J9 and Hams Hall roundabouts.
23. However, the volume of traffic movements diminishes along Marsh Lane and in particular, the weight restriction in place through Curdworth village prohibits the movement of larger HGVs. This, together with the narrower road width contributes to a quieter and more rural character along Marsh Lane, with the movement and noise from the M42/M6 corridor only becoming apparent at closer distances to the Marsh Lane overbridge.
24. The new roundabout access would open the site up from Marsh Lane, with a noticeable increase in the level of HGV movements between the Hams Hall roundabout and the site access and this increased activity would also reduce the openness of the Green Belt.
25. Turning to Green Belt purposes, since no historic towns would be affected, purpose (d) is not relevant in this case. Whilst the use of brownfield and other urban land would comply with purpose (e), there is nothing in the evidence to indicate that there are alternative brownfield sites in the vicinity of the appeal site that would be available for a truck stop.
26. The truck stop would not physically merge with, nor would it be viewed directly in conjunction with, the built up areas of Curdworth nor Water Orton to the south due to the separation distances between them and the intervening topography. Due to the separation distance and the location of the intervening

Hams Hall roundabout, a degree of visual separation between the proposed development and the Distribution Park would be retained. Overall, I conclude that the proposal would not undermine Green Belt purposes (a) and (b) to check the unrestricted sprawl of large built-up areas and to prevent the merging of neighbouring towns.

27. Notwithstanding the presence of urbanising features in the vicinity of both parts of the appeal site, it is viewed in conjunction with the wider open countryside which extends from the M42/J9 roundabout to the built up edge of Coleshill to the south. From public vantage points to the east of Curdworth, including the Public Right of Way, the Hams Hall Distribution Park buildings, pylons and the HS2 works appear as the background context to the site, but they do not intrude into, nor undermine, the undeveloped and open aspect of the northern field.
28. The truck stop would be a significant incursion into part of the wider area of open countryside between the M42/J9 roundabout to the built-up edge of Coleshill, contrary to the purpose of the Green Belt to safeguard the countryside from encroachment. The site falls within the wider parcel CH9 in the Council's most recent Green Belt Study². The Framework does not make any distinction between Green Belt 'performance' in decision making, and I therefore give very limited weight to the appellant's conclusion that the site would be considered as 'low performing' when assessed against the purposes of the Green Belt.
29. My conclusion is that the proposal would be inappropriate development in the Green Belt which would result in significant harm to openness and would conflict with the purpose to safeguard the countryside from encroachment. There would be conflict with LP Policy LP3 and with the Framework. I give substantial weight to the harm arising from inappropriateness.

Form and character - Landscape

30. The appeal site is not within any national or local landscape designations and it is not a 'valued' landscape within the context of paragraph 180 of the Framework. The biodiversity and planting proposals for the southern field would make a positive contribution to the defining characteristics of the Cole Valley Landscape Character Area (LCA) within which it is located.
31. The northern field lies within the Middleton to Curdworth-Tame Valley Farmlands LCA, which is characterised by large arable fields enclosed by low gappy hedgerows with a few hedgerow trees. Although the landscape is predominantly agricultural, the Landscape Character Assessment³ acknowledges that at the southern end there are busy transport corridors, connecting to nearby industrial areas to the south around Hams Hall.
32. Due to its topography and lack of vegetation cover, when approaching along the A446 from the south, the northern field forms an open and undeveloped backdrop and it is not viewed directly in conjunction with the urbanising features of roads and the large scale buildings at Hams Hall. For this reason, it is characteristic of the landscape features of the Middleton to Curdworth-Tame Valley Farmlands LCA.

² Coventry and Warwickshire Joint Green Belt Study (April 2016)

³ North Warwickshire Landscape Character Assessment

33. Assessed against the factors in the Landscape Institute's Technical Guidance Note 02-21, the appellant's Landscape Statement concludes that the site and its immediate context are of low landscape value. The appellant's LVA concludes that the overall landscape effect would be minor adverse which would reduce to negligible with the maturing and management of existing and new planting, including on the southern field.
34. From more distant viewpoints, the intervening topography and vegetation would limit direct views of the development. However, at closer distances there would be substantial changes arising from the re-alignment of Marsh Lane, changes to landform, the new roundabout, new buildings, lighting, signage, fences and parked HGVs which would be harmful to the defining characteristics of the LCA.
35. The harm to the landscape character of the Middleton to Curdworth-Tame Valley Farmlands would be localised in effect and the proposed landscaping would soften the appearance of the development in the longer term. Overall, I conclude that there would be moderate harm to the landscape character of the LCA, in conflict with LP Policies LP1 and LP14 which together seek to improve the environmental quality of the area, and to conserve, enhance or restore landscape character.

Living conditions

36. At my informal site visit during the hours of darkness, I was able to see that there is a degree of existing illumination in the vicinity of the appeal site from the M42/M6 corridor, along the A446 and around the Hams Hall roundabout.
37. The appellant's Lighting Report strategy would follow best practice to limit light spread, to prevent glare and to avoid upward emission. There would be a minor adverse effect on the occupiers of Spring Farm to the south of Marsh Lane, which is the closest residential receptor.
38. The Council and the appellant have agreed a condition that would secure details of external lighting at the reserved matters stage, following the lighting strategy proposed. This would be necessary and reasonable to ensure that the submitted details would not cause material harm to the living conditions of the occupiers of Spring Farm, nor to the occupiers of the nearest residential properties on the east side of Curdworth.
39. Based on the appellant's Noise Impact Assessment, there would be negligible increases in noise levels from additional HGV movements above existing background noise levels. The Council and appellant have agreed conditions that would secure details of noise mitigation measures during construction and site operation, including for all mechanical plant and ventilation equipment such as fuel pumps and reversing alarms. These would be necessary and reasonable to ensure that there would be no material harm to the living conditions of nearby occupiers arising from noise and disturbance.
40. A Site Management Plan condition is also agreed. This would require details of litter and refuse collection, site security and measures to ensure that the truck stop would be restricted to HGV use and that it would not be used as a general facility for other highway users.
41. Overall, subject to the imposition of the above necessary conditions, I conclude that the proposed development would not lead to unacceptable impacts on the

living conditions of nearby occupiers. As such, there would be no conflict with LP Policy LP29 in so far as it requires new development to avoid and address unacceptable impacts on neighbouring amenities, including through noise and light pollution, nor with LP Policy LP30 in so far as it seeks to reduce sky glow, glare and light trespass from external illumination.

Other Considerations

42. Paragraph 113 of the Framework states that the importance of providing adequate overnight lorry parking facilities should be recognised in planning decisions, to reduce the risk of parking in locations that lack proper facilities, or where it could cause a nuisance. In supporting the safe and efficient operation of the distribution sector, the proposal would contribute to the economic objective of sustainable development.
43. LP Policy LP34 states that in recognition of the Borough's strategic location and demand for lorry parking, the Council will give weight to lorry parking provision and facilities, and opportunities for alternative provision and improved management in decision taking. There are, however, no site allocations for HGV parking or other driver facilities in the adopted LP.
44. The National Survey of Lorry Parking 2022 survey update confirms continuing high levels of demand and utilisation rates within the West Midlands. The provision of new facilities to address the national need for more lorry parking, and better services, has also received Ministerial support⁴.
45. The truck stop would help to address a national shortage of HGV parking. It would be well located for drivers using the Hams Hall Distribution Park, which is a nationally significant distribution facility, whilst also addressing issues caused by roadside HGV parking in the vicinity of Hams Hall.
46. The proposed truck stop would be conveniently located for HGV drivers to take their prescribed break periods within legal driving times. The provision of modern and accessible facilities would also support driver welfare and would make a positive contribution to recruitment and retention in the sector.
47. The proposed development has received representations in support, including from the managing agent for the Hams Hall Distribution Park who states that it would help to address the negative impacts of roadside parking on nearby roads. Warwickshire Police indicate their support as the proposed facility would give HGV drivers a secure place to park as they travel through North Warwickshire.
48. Taking into account traffic growth on the M42/M6 and A446, the Circular 2/2013 methodology indicates a need for 159 HGV spaces, and the appellant's Transport Assessment beat survey found that there were 89 HGVs parked inappropriately on roads in the vicinity of Hams Hall. The scale of the HGV parking provision is sufficiently flexible to accommodate future traffic growth and is justified by the evidence.
49. An assessment of 23 alternative sites, both within and outside the Green Belt, accompanied the planning application. The appeal site was found to be the

⁴ Secretaries of State for Transport, Work and Pensions and Environment, Food and Rural Affairs letter to the UK Logistics Sector July 2021 and Written Statement 'Planning reforms for lorry parking' by the Secretary of State for Transport 8 November 2021

most suitable in relation to the criteria used, which appear to be reasonable and robust. Although the site to the north-east of Junction 10 was not included in the alternative site assessment, at the hearing the appellant confirmed that this was due to the uncertainty about the future of the existing Motorway Service Area at Junction 10 in relation to HS2 works when the alternative site assessment was done.

50. Although other HGV parking and facilities have been developed in the area, and there is an outstanding application for HGV parking to the north east of M42 Junction 10, there is nothing to suggest that there is insufficient demand to support an additional facility in the location of the appeal site. Based on the above considerations, I give significant weight to the benefits of the proposed scheme.
51. The biodiversity measures on the southern field would be secured through a condition requiring details of a Landscape and Ecology Management Plan at the reserved matters stage. This would be based on the submitted Ecology Report which sets out the biodiversity net gain calculation. Overall, the proposal would comply with LP Policy LP16 which requires that development should help ensure a measurable net gain in biodiversity. I afford the biodiversity gains moderate weight in favour in the overall planning balance.

Other matters

52. Subject to conditions which have been agreed, National Highways has no objection to the proposed development and no measures are necessary to mitigate the impact of the proposal on the Strategic Road Network. The appellant's Transport Assessment has modelled the effect of the development on the local highway network and subject to conditions, the Highway Authority has no objection. A 3 metre footway/cycle path would be provided to the north of Marsh Lane, between the new roundabout and the Hams Hall roundabout.

Green Belt Balance and Conclusion

53. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations, which include the Framework, indicate otherwise.
54. Whilst I have found that there would be no material harm to the living conditions of nearby residents, this is a neutral factor in the overall planning balance.
55. The other considerations in this case include the compelling evidence of need for additional HGV parking and driver facilities, the provision of which would help to address a national shortage of HGV parking, improve driver welfare, would support the distribution sector generally and would have wider public benefits in reducing the levels of roadside parking in the vicinity of Hams Hall Distribution Park. I give significant weight in favour of the appeal to these benefits, and moderate weight to the biodiversity proposals for the southern field.
56. Set against this, the proposal would be inappropriate development in the Green Belt and substantial weight attaches to the harm to the Green Belt. This combined with the moderate harm to the landscape character of the Tame

Valley Farmlands LCA carries very substantial weight against the proposal in the Green Belt balance.

57. I find that the other considerations, taken together, do not clearly outweigh the very substantial weight against the proposal arising from the combination of inappropriateness and the harm to landscape character. The very special circumstances necessary to justify the development in the Green Belt do not exist. Therefore, the proposal would be contrary to the development plan, read as a whole, along with the provisions of the Framework.
58. For the reasons outlined above and having had regard to all other matters raised, the appeal should be dismissed.

Sarah Housden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:	
Mr S Harley BSocSc (Joint Hons) MPhil MRTPI	Director, Oxalis Planning
Ms M Thomson LLB LARTPI	Planning Solicitor
Mr T Jackson BA Hons Dip LA CMLI	Director, FPCR Environment and Design Ltd
FOR THE LOCAL PLANNING AUTHORITY	
Mr J Brown BA DipTP MRTPI	Head of Development Management
Cllr M Watson North Warwickshire Borough and Warwickshire County Council	
INTERESTED PERSONS	
Mr R Habgood	Curdworth Parish Council
Mr Hodgetts	Hodgetts Estates
Mr Bunn	Director, Tetra Tech
Mr D Hann	Director, WSP
Ms S McKenna	
Mr T Tillson	
Mr T Wilcox	
Ms J Tillson	
Ms J Wiseman	
Mr P Smith	
Mr T Wilcox	

DOCUMENTS SUBMITTED AT HEARING

1. Notification letter from the LPA dated 13 December 2023 to third parties notifying that the hearing is scheduled to last for 2 days.