

Appeal Decision

Site visit made on 5 July 2016

by R J Marshall LLB DipTP MRTPI

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

Decision date: 20 September 2016

Appeal Ref: APP/Z2830/W/15/3140945

Former Furtho Pit, Cosgrove Road, Cosgrove, Milton Keynes

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by conditions of a planning permission.
 - The appeal is made by Mr David Adams (Ace Plant Hire Ltd.) against the decision of South Northamptonshire Council.
 - The application Ref S/2015/0674/MAR, dated 23 March 2015, sought approval of details pursuant to conditions Nos. 2,3,7,8,19 and 26 of outline planning permission Ref. S/2010/0923/MAO granted on 14 June 2012 for Commercial development (Use classes B1 and B2) with new vehicular access (outline).
 - The application was refused by notice dated 3 July 2015.
 - The details for which approval is sought are: Cond.2, the layout, appearance, access, landscaping and scale of the development; Cond.3, the landscape works required by condition 2; Cond.7, finished floor levels; Cond.8, means of enclosure along boundaries and within the site; Cond.19, provision of right turn access junction to the site from the A508; and Cond. 26, outside storage within a defined area.
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Decision

1. The appeal is allowed and the details submitted pursuant to conditions Nos. 2, 3, 7, 8, 19 and 26 attached to planning permission Ref. S/2010/0923/MAO granted on 14 June 2012 in accordance with the application dated 23 March 2015 and the plans listed below are approved subject to the conditions on the attached list.

Background and procedural matters

2. In the third bullet point above I have taken the planning application No. from the appeal form, rather than the reserved matter application form, as it is clear from other documents on the file that this is the correct reference.
 3. The appeal site is a large irregular shaped parcel of land. It is open land containing no buildings or structures. The site forms part of a much larger area of open land bounded to the west by the A508 and to the south by the A5. Sand and gavel extraction took place on the site following permissions in the mid and late 1980's and it seems that similar operations were undertaken on much of the remaining open land. All the land and gravel pits have been filled in. In planning Policy terms the site is in the countryside.
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4. The appellant company occupies a site relatively nearby, on the opposite side of the A5 and within a residential area. The company runs a plant hire business. The existing site, being in a residential area, is not well located for this type of operation. This has been recognised by both the Council and the appellant. Keen to retain a business use in the area in line with its economic Policy objectives the Council granted the outline permission, S/2010/0923/MAO, to allow for the relocation of the appellant's business to the appeal site. There is a clear understanding between the parties that the appellant company will be the occupier of the appeal site and the layout of this site in this reserved matters is clearly for the type of operation conducted by the appellant. Permission was also granted for the appellant's present site to be redeveloped for housing.
5. At appeal stage the appellant seeks to have 3 plans superseded (06116-001D, H6557 LP0a/b and 0616 009) and replaced by 7 revised plans (6643.01.100 A, 6643.01.101 A, 6643.01.102, 6643.01.103, 6643.01.104, 6634.01.105 and 6643.01.106).
6. The main reasons given for submitting these plans is to correct some inaccuracies in the plans submitted at application stage, provide improved planting and to give a better indication of the extent of off-site landscaping. In terms of the changes being made to the proposal they are largely limited to landscaping and include planting schedules, additional planting in one corner of the site and the provision of a small damp meadow. As such relatively modest changes would be made. The appellant has undertaken extensive notification of the revised plans, contacting all those notified by the Council at application stage. And the Council has had the opportunity of commenting on the revised plans. I consider, therefore, that taking into account the revised plans would not be detrimental to the interests of those who may have wished to comment on the proposal.
7. I have 2 potential concerns over the revised plans superseding the application plans. The first is that revised plan 6643. 01.101 A shows the widening of the headland to the side of an existing hedgerow in the south-east section of the site and additional native planting in that hedgerow. This would be on land outside the application site and could not, therefore be undertaken. However, as this may be taken account of in my decision this error should not stand against accepting the revised plan. My second concern is that the site layout plan to be superseded, 06116 001 D, contains, amongst other things, details of some materials to be used on the ground and the location and design of perimeter and internal fencing all of which are for consideration at this stage. These details are not repeated on any of the revised plans the appellant wishes to have taken into account. However, this could be overcome by taking plan 06116 001 D as being superseded only in relation to the proposed soft landscaping and planting, and for the avoidance of confusion having regard to revised site plan 6643 01.100 A only in so far as it relates to soft landscaping, planting and the height of the building relative to ground level. With these caveats I shall base my decision having regard to the amendments proposed.

Main Issue

8. The main issues in this appeal are: **first**, whether the details submitted on the layout, appearance, landscaping and scale will ensure that the development has an acceptable impact on the character and appearance of the surrounding

area and would be acceptable on ecological grounds; and **second**, whether the submitted details on the highway access would provide a safe means of vehicular access.

9. The second issue arises because although the Council did not refuse permission on highway grounds it did, in refusing the appellant's application in its entirety, refuse to approve the detailed plans seeking to deal with condition 19 on the provision of a right turn access junction to the site from the A508.

Reasons

Character and appearance of surrounding area and ecological matters

Background

10. The appeal site lies in an area denoted as being an Undulating Claylands Landscape Character (UCLC) type. Much of the land beyond the reclaimed area in which the appeal site lies, especially to the north and east of this area, has the attractive landscape characteristics of the UCLC. However, the site itself exhibits the rather bleak and characterless appearance of much reclaimed land. That said the site and surrounding area has a largely rural character and appearance with only a scatter of development. To the north, on the opposite side of Dogsmouth Brook, and partially screened from the site by trees, are some low key and not unattractive commercial buildings /stables along with a loose knit scatter of housing along Northampton Road and Stratford Road. On a relatively small parcel of land to the south of the site, in the reclaimed area, is the K J Pickles building contractors yard. Although the open storage on this land is not that attractive it is not much seen beyond the confines of the remainder of the reclaimed land. Directly to the east of the site is some land said to be used for outside storage. However, the Council says that this use is unlawful and no evidence to the contrary has been provided. Some considerable distance to the south-east of the site, and abutting the A5, is the large Emits building housing a business concerned with the storage, fabrication and repair of fairground rides. To the west of the site the A508 runs past at a higher level but well screened by thick vegetation.
11. The outline application was accompanied by an indicative layout plan No. SK05 rev. 1. This showed the provision of only one building, towards the north-east corner of the site, the disposition of car parking and other hardstanding areas in the vicinity of the building and the location of the access from the A508 and the access road. What is far less clear from this plan is the treatment and layout of the extensive remainder of the site to the south-east of the building. Indeed much of this land is not even shown on the plan. On that part that is on the plan are the words "permeable hardstanding for clean storage" and a storage pond and reed bed is shown. It is unclear how far it is envisaged that this "clean storage" area would extend.
12. The layout plan for consideration now, 06116 001 D, shows the proposed building in much the same location, and of the same area, as shown on the indicative outline layout plan. And the access, access road and hardstanding areas immediately around the building are also similarly located. Where the current plan differs from the outline plan is that no storage pond or reed bed is shown and most of the site from the building to the site's eastern boundary is clearly shown as being taken up by outside storage. The layout plan shows

where the proposed fencing would be located and details the type of fencing to be used.

13. To be taken into account in terms of scale and appearance are plans 06116 003 A and 06116 005 A showing detailed floor plans and elevations of the proposed building. The height of the building, 7.1 metres to the ridge, accords with the requirement of one of the outline conditions. The finished floor level of the building, for consideration in this application, is shown on plan 6643 01.100 A as broadly at ground level. The mildly sloping nature of the site would mean that it would be set slightly into the ground to the south and slightly above ground level to the north.
14. The revised landscaping plans show where the landscaping is to be provided, mostly around the perimeter of the site and in particular along the northern boundary, details of planting, and various site sections showing proposed planting and mounding.

Assessment

15. The Council has no objection per-se to the size, design, appearance and location of the proposed building I consider the Council correct to have taken this view given that the floor area of the building and its location accords with the indicative outline plans, its height accords with that conditioned at outline stage and its appearance is the functional design to be expected of a contractor's yard. Nor does the Council object to the floor height of the building in relation to ground level. Correctly so as given the use proposed and the size and shape of the site it is difficult to envisage how it could be anything other than at around ground level as shown.
16. I see no objection to the proposed use of palisade fencing around most of the proposed open storage area. The use proposed requires good levels of security and it should have been anticipated at outline stage that fencing of this kind would be required. Moreover, ensuring that it is of an appropriate colour would minimise its impact. The weld mesh fencing proposed around the staff car park to the west of the building would, by its nature, be relatively unobtrusive.
17. Condition 26 requires that "Any outside storage shall only take place within a defined area, details of which shall be submitted to and approved by the Local Planning Authority". The Council is concerned about the size of the area shown. It considers it to be a more significant feature than shown on the outline plans and that as such it would appear a more urban feature out of character with the rural area. However, this sits uneasily with the Officer's report on an earlier, withdrawn, reserved matters application. Here, on a not dissimilar proposal, no concerns were raised on the scale and layout of the development and an Officer's letter relating to that proposal said that there was indeed no such concern. I consider it not unreasonable for the appellant to be seeking the scale of development sought given the not insubstantial size of the existing yard and the rather cramped nature of storage on it.
18. I turn now to the current degree to which the site is screened and the landscaping now proposed. The site is currently notably well screened from the A508 by a tall roadside hedge. The proposed access would open the site up to view slightly. However, seen from vehicles going past the site at speed, the proposed development would not, with the landscaping proposed, appear unduly obtrusive. Roadside screening and the lie of the land would prevent

any view of the site from the A5 and the A5/A508 roundabout junction. Seen from a footbridge over the A5 leading to Cosgrove Road the lie of the land would prevent the proposed development being seen. From Cosgrove Road itself, which runs to the east of the site, views of the proposed development would be mostly screened by a roadside hedgerow and planting. Only through a few gaps in the hedge would the development be seen, and then it would at least be in the context of some foreground screening of a hedgerow on the southern boundary of the site, albeit as already noted the fact this lies beyond the application site would prevent any hedgerow thickening. These findings apply equally well to the screening of the proposed palisade fence which would equally, if not more so, benefit from the existing and proposed planting.

19. From Stratford Road and Northampton Road there are localised views of the appeal site. The appellant has provided a series of photographic representations of the effect of the proposed development when seen from these roads with existing levels of screening. To represent the equipment that would be stored on the site a maximum height of 3.5 metres has been used. From my visit to the appellant's site this seems to be a reasonable assumption and it would be possible to condition storage to this height. My inspection of the site indicated that in the summer months existing tree screening along Dogsmouth Brook would not entirely screen the stored equipment from certain views along Stratford Road and Northampton Road. However, the proposed dense boundary planting along the northern boundary of the site, and species chosen, should ensure that the storage would be largely screened from view at that time of year. This would especially be so as the planting matured. The appellant's photographic representation shows that in the winter, as things currently stand, storage on the site would be more visible than in the summer. However, the density of the proposed planting would substantially reinforce the degree of screening to the extent that there would be a satisfactory filter to items stored on the site even in the winter.
20. The proposed building, being much taller than the equipment to be stored, would be, with the existing levels of screening, more noticeable in views from Stratford Road and Northampton Road. In the summer months there would be a reasonable level of screening with a fairly substantial amount of the building screened from view. The additional planting would reinforce that to some degree. As things stand at present the building would more visible in the winter, but the proposed planting should lessen this to some degree. Moreover, as the building height has been approved at outline stage and the Council have no objection to the siting of the building it seems to me that it is unlikely that any landscape scheme, paying due regard to the constraints of the site and a need for planting in keeping with that in the area, would achieve much more in terms of screening than the proposal before me.
21. A further concern of the Council, arising from the scale and layout of the proposed development, is the absence of the storage pond and reed bed shown on the outline application plans. It considers that this would fail to comply with the National Planning Policy Framework (the Framework) in so far that it requires the planning system to provide net gains in biodiversity where possible. However, the appellant has provided evidence on the ecological benefits of the proposed planting in terms of wildlife diversity and wildlife which, although modest, would provide a reasonable gain in biodiversity.

22. The materials proposed for the surface of the visitor/staff car park and pedestrian entrance to the building are acceptable. No indication has been given of the surface treatment of other areas on the site. However, to ensure a satisfactory appearance to this part of the development, a condition could be imposed requiring these details.
23. It is concluded that the details submitted on the layout, appearance, landscaping and scale (covered by conditions 2,3,7,8 and 26) would ensure that the development has an acceptable impact on the character and appearance of the surrounding area and would be acceptable on ecological grounds. There would be no undue conflict with Policies G3 (A and L), EV1 and EV29 of the South Northamptonshire Local Plan (2014) which require new development to be compatible with the locality and provide suitable landscaping.

Highway safety

24. Although access is a reserved matter there is no contention between the parties that it should be onto the A508 in the location shown. Condition 19 requires that development should not take place until details have been provided of a dedicated right turn access junction to the site from the A 508 and that this should be operational before the use commences.
25. As part of the application before me those details have been submitted on drawing No. 1063-06 Rev. B. The Council raises no objection to these plans but refers to the observations of the highways authority seeking more details which may lead to some minor changes to the submitted scheme. It is satisfied that this may be dealt with by condition and I agree.
26. It is concluded that the submitted details on the highway access (required by condition 19) would, subject to the requirement for additional details, ensure that a safe means of vehicular access could be provided. There would be no conflict with the requirement in the Framework that new development should have a safe and suitable access.

Other matters

27. The absence in the reserved matter proposals of the pond and reed bed removes a means of storage water retention from the development. This has drainage implications. The appellant has devised a new scheme of underground storage consisting of intercepted water in tanks linked to a hydro tank or pump. However, I have no evidence from the Council on the acceptability of this scheme and thus to ensure that the site is satisfactorily drained I consider it appropriate to impose a condition requiring the submission and approval of a drainage scheme to the Local Planning Authority before development commences.

Conditions

28. As I am minded to allow the appeal I have considered what conditions should be imposed. In addition to those referred to above I shall list, for the avoidance of doubt, those plans to which this approval relates. In the interests of highway safety I shall require the staff/visitor parking, service yard, lorry parking and storage compounds to be provided before first occupation of the development. To ensure a satisfactory appearance to the development I shall require details of: the planting regime; a landscape management plan; the

colour of the palisade fencing; and the surface materials of the service yards etc.

Conclusion

29. For the reasons given above it is concluded that the appeal should be allowed.

R J Marshall

INSPECTOR

Conditions

- 1) The development hereby approved shall be carried out in accordance with the following approved plans:
6643.01.100 A (Only is so far that it relates to soft landscaping, planting and the height of the building relative to ground level)
6643.01.101 A
6643.01.102
6643.01.103
6643.01.104
6634.01.105
6643.01.106
1063-06 B
06116 001 D (But not in relation to the proposed soft landscaping and planting)
06116 002
06116 003 A
06116 005 A
06116 006
- 2) Notwithstanding the details on drawing no. 1063-06 B no development shall take place until further details have been submitted to the Local Planning Authority for left turning traffic volumes in AADT at the A508 junction, to include the percentage of HGV's and the uphill/downhill percentage gradient. Necessary mitigation works in the form of the left turn diverge taper lane at the junction with the A508 shall be implemented and operational in accordance with a scheme to be agreed in writing by the Local Planning Authority prior to the first use of the development hereby permitted and retained in place thereafter.
- 3) The staff/visitor parking, service yard, lorry parking and storage compounds shall be provided in accordance with the approved plans, and the details approved under condition 8 below, before first occupation of the development permitted under S/2010/0923/MAO. These areas shall thereafter be retained for these purposes in connection with that development.
- 4) All planting, seeding or turfing in the landscape details hereby approved shall be carried out in the first planting and seeding seasons following the occupation of the site and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs 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.
- 5) A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved by the Local Planning Authority prior to the occupation of the development for its permitted use. The landscape management plan shall be carried out as approved.

- 6) Notwithstanding the details on drawing 06116 001 D no development shall take place until details of the colour of the palisade and weld mesh fencing hereby approved have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place until details of the surface water drainage of the site have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 8) No development shall take place until details of the materials to be used in the construction of the external surfaces of the service yard, lorry parking and storage compounds have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) Items stored in the storage compounds shown on the approved plans shall not exceed 3.5 metres in height.