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## Appeal Decision

Site visit made on 17 August 2016

**by Amanda Blicq BSc (Hons) MA CMLI**

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

**Decision date: 24<sup>th</sup> October 2016**

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**Appeal Ref: APP/J0405/W/16/3147873**

**Oakwood Farm, Ledburn, Mentmore, Buckinghamshire LU7 0QD**

- 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 Greybird Solutions Limited against the decision of Aylesbury Vale District Council.
  - The application Ref 15/03222/APP, dated 18 September 2015, was refused by notice dated 24 March 2016.
  - The development proposed is a building for storage and distribution of plant, machinery and parts.
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### Decision

1. The appeal is allowed and planning permission is granted for a building for storage and distribution of plant, machinery and parts at Oakwood Farm, Ledburn, Mentmore, Buckinghamshire LU7 0QD in accordance with the terms of the application, Ref 15/03222/APP, dated 18 September 2015, subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The development hereby permitted shall be carried out in accordance with the following drawings: 236-15-1; 236-15-2; 236-15-3; 236-15-4; and 236-15-5.
    - 3) The development hereby permitted shall be constructed entirely of the materials indicated on the plans listed under condition 2.
    - 4) Development shall not begin until details of loading, unloading and parking for construction traffic, operatives and visitors to the site during the construction period has been submitted to and approved in writing by the local planning authority. Construction traffic shall thereafter comply with the approved details.
    - 5) Development shall not begin until details of the proposed means of foul and surface water drainage shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with that approved scheme.
    - 6) Prior to first occupation of the site full details of landscape and planting works shall have been submitted to and approved in writing by the local planning authority. These details shall include identification of all trees to be retained showing their species, spread and maturity, planting plans,
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and schedules of plants, noting species, plant sizes and proposed numbers/densities. These works shall be carried out in accordance with the approved details within the first planting season following the first occupation of the development or the completion of the development (whichever is the sooner).

- 7) Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.

### **Application for costs**

2. An application for costs was made by Greybird Solutions Limited against Aylesbury Vale District Council. This application is the subject of a separate Decision.

### **Procedural Matters**

3. For brevity I have reduced the description given on the application form to that given in the heading above.
4. The Council's reasons for refusal refer to the aims of Buckinghamshire's Local Transport Plan (LTP) 3, now superseded by LTP 4<sup>1</sup>. As there is no further information to clarify which aims or policies in the LTP are relevant to this appeal, I have referred to Objective 2: Growing Buckinghamshire, and Objective 3: Healthy, Safe and Sustainable Buckinghamshire.

### **Main Issues**

5. The main issues are the effect of the development on:
  - the safety of the highway network; and
  - whether with due regard to the development plan and national policy, the location of the proposal would represent a suitable site for the proposed development.

### **Reasons**

#### *Highway safety*

6. The appeal site forms one part of a large open area of hardstanding accessed from Rowden Lane to the immediate west of the West Coast railway line. The hardstanding, together with the appeal site, has extant planning permission for several agricultural buildings<sup>2</sup>. This appeal is concerned with the erection of one building for storage and distribution; the building concerned would be similar in external appearance to one of the buildings previously approved.
7. The site lies a short distance from the B488, which links Leighton Buzzard to Tring and Hemel Hempstead. However, to access the B488 from Rowden Lane vehicles must negotiate a railway bridge with a height restriction of 3.2 metres. The Council's concern is that access to the site for both customers

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<sup>1</sup> Buckinghamshire County Council, Local Transport Plan 4, April 2016

<sup>2</sup> Ref 05/00236

- and distributors would be limited, as heavy goods vehicles (HGVs) would be unable to pass under the bridge. Furthermore, the Council is concerned that as the highway network to the west of the site is limited to a series of rural lanes, an increased volume of HGV traffic would be detrimental to highway safety and convenience.
8. The evidence before me indicates that the appellant owns a chicken farm at Oakwood Farm some 350 metres to the west, and that the extant permission for the additional buildings would increase his holding by some 20 per cent. The transport statement<sup>3</sup> indicates that 44 tonne vehicles already access Oakwood Farm on a weekly basis from the direction of Ledburn, to the west of the appeal site. Were the whole hardstanding lawfully developed as an extension to the existing agricultural business it is likely there would be associated vehicular traffic to feed, service and transport the animals. Although the nature of the agricultural business associated with the extant permission could cover a wide range of activity, it seems reasonable to suppose that the frequency of HGVs and other agricultural traffic would increase. The Council points out that the appellant has already intensified his business on other land owned by Oakwood Farm, but this does not alter the fact that the appeal site already has permission for development that would increase the frequency of vehicles using Rowden Lane in both directions.
  9. Buckinghamshire County Council (BCC) concludes that the breakdown of vehicle movements given in the transport statement would be representative of Class B8 storage and distribution use, but would be more than that associated with the approved agricultural use. However BCC does not provide evidence to support this statement, and it would in any case be dependent on the agricultural operations undertaken. In addition, the transport statement indicates that most vehicles accessing the site, were the appeal to be allowed, would be small enough to pass under the bridge. HGVs would visit the development about once a week.
  10. BCC also states that the highway network to the west of the site is predominantly single track. However, this did not concur with my observations; on my visit I noted that there were centre-line road markings to within some 400 metres of the west of the site entrance and that beyond Ledburn the carriageway width increases. Furthermore, there was very little traffic although I acknowledge that this is a snapshot in time. I appreciate that were the appeal to be allowed other uses with a different traffic profile could use the site in the future, but there is nothing in the evidence before me to indicate this is likely. In any case, each appeal is determined on its merits. The evidence before me also indicates that the site has been used by Network Rail and National Grid between the 1990s and 2014, both of which would probably have required access for heavy plant and vehicles.
  11. Policy RA36 of the Local Plan<sup>4</sup> (LP) states that when considering proposals in rural areas, the Council will have regard to the desirability of protecting the characteristics of the countryside from excessive traffic generation, including the need to avoid traffic increases and routing unsuited to rural roads. However, as reasoned above, I am mindful that the Council has granted permission for six large agricultural buildings on land including and adjacent to the appeal site, which would be likely to generate increased traffic including

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<sup>3</sup> Encon Associates August 2015

<sup>4</sup> Aylesbury Vale District Council Local Plan 2004

vehicles unable to pass under the railway bridge. Consequently, I give this argument limited weight.

12. Although not cited in the reasons for refusal, the Council refers to LP Policy RA29. This states that the Council will resist proposals for new employment buildings in rural areas, but will have regard to extant planning permission in order to define the extent of an existing employment site. I appreciate the Council's concern that the extant permission in this case is related to agricultural use, and the appeal before me is for use Class B8. However, Paragraph 28 of the National Planning Policy Framework (the Framework) states that planning policies should support the sustainable growth and expansion of all types of businesses and enterprises in rural areas, and promote the development and diversification of agricultural and land-based rural businesses. The LP predates the Framework by some years, and LP Policy RA29 is inconsistent with it. Consequently, as Paragraph 215 of the Framework requires due weight to be given to policies in existing plans according to their consistency with the Framework, I give LP Policy RA29 little weight.
13. Paragraph 32 of the Framework states that developments that generate significant amounts of movement should be supported by a transport statement. Although the quantum of significant is not quantified in the Framework, and I am not persuaded that traffic generated by this development would be considered significant, the appellant has nonetheless supplied such a statement. This indicates that only a small proportion of traffic associated with the development would need to access the site from the west. Whilst I appreciate concerns that the travel arrangements of future customers and suppliers cannot be entirely predicted, it seems more than likely that visitors and staff would approach the site from the B488 some 300 metres to the east, rather than along the lanes from the west, unless travelling in vehicles unable to pass under the bridge.
14. In the light of the above, I conclude that although there would be an incremental increase in heavy vehicles approaching the site from the west, the development would not generate excessive traffic or have a significant adverse effect on highway safety. As such it would not be in conflict with LP Policy RA36, as outlined above. Nor do I find the development contrary to the provisions of Paragraph 32 of the Framework which requires development to provide safe and suitable access, or LTP Objectives 2 and 3 which aim to secure good transport infrastructure to meet the current and future needs of residents, and require travel options to be safe. I note the Council's concerns in respect of wider sustainable transport options, and these are discussed below.

#### *Sustainable location*

15. The Council recognises that the development would have the potential to create limited employment, but concludes that as access by public transport is not a realistic possibility, there would be undue reliance on private vehicles, and that the harm from this would outweigh the employment benefits. I appreciate that the site is fairly remote from public transport and there are limited opportunities for non-vehicular modes of travel. However, the nature of the proposed business is such that customers collecting parts and machinery are unlikely to walk or cycle to the site, and the business would generate

vehicular traffic irrespective of its location. Furthermore, businesses needing machinery and plant parts are themselves likely to be in out of town or rural locations. Although staff would need to travel to the site, the business would be staffed by two full-time and one part-time staff member, and their travel, even were it by private vehicle, would not cause a significant increase in vehicular movement. Consequently, I give this argument very little weight.

16. Paragraph 7 of the Framework outlines that sustainable development has economic, social and environmental dimensions. Whilst the Council accepts that the development would have some benefit in terms of employment and economic activity, it also states that the overall aim of the Framework is to encourage economic activity in rural areas where benefit to the local community is maximised, and that the appeal site is remote from centres of population and other economic activity. However, I noted on my visit that the land opposite the appeal site is an angling club, and the evidence before me indicates there is new housing associated with nearby Rowden Farm and approval for a horsemanship centre, as well as the ongoing farming operations at Oakwood Farm. In addition, the proposed tenant would be an established business looking to expand, and the development would represent diversification and an additional income stream for an existing land-based business. Furthermore, land-based businesses are by their very nature relatively remote from population centres and transport infrastructure. In addition, given the site's proximity to Leighton Buzzard and Aylesbury, I am not altogether persuaded that the site is particularly remote.
17. Consequently, although I appreciate that Paragraph 32 of the Framework states that decisions should take account of the opportunities for sustainable transport, this is qualified by reference to the nature and location of the site. As such, I conclude that the location of the appeal site would be suitable for the development in the context of local and national policies. I do not find any conflict with the aims of LTP Objective 3 which promotes sustainable travel choices, or Paragraphs 29 – 32 of the Framework which taken together, promote sustainable transport.

#### *Other matters*

18. An interested party has raised a concern that the proposed business would not supply agricultural equipment. Whilst I appreciate that the extant permission is for agricultural use, the acceptability of the proposed scheme is not based on whether the new building would supply agricultural equipment, but on its role as a supplier for a wider range of commercial activity. On that basis, and with regard to the evidence before me, I have found it acceptable. As such, whether the business serves the agricultural market or not, is not a determinative factor in my reasoning.
19. The ongoing maintenance of Rowden Lane has been raised as a concern. However, it is an adopted highway and as such its condition and future maintenance is outside the scope of this appeal. I appreciate that there has been other development in the area since the extant permission was approved but notwithstanding that traffic movements may have changed since that approval, that permission remains valid. With regard to the likelihood of further applications for change of use for the approved buildings, were the appellant to seek such permissions, the Council would have an opportunity to

review the traffic likely to be generated at that point. The appeal before me is for one building only.

20. It has been brought to my attention that there is planning permission for a solar farm on land adjacent to the appeal site<sup>5</sup>. However, the Council has not raised any concerns in relation to the impact of the development on the character and appearance of the appeal site or wider area and I see no reason to disagree with that finding. Furthermore, it remains that there is already approval for significant building on the appeal site and adjacent land.
21. Concern has been raised in relation to potential damage to the bridge but there is no evidence before me to indicate that the development would increase the risk of vehicular collision with the bridge and I give this argument very little weight.
22. An alternative site has been proposed by a third party. However, I am concerned only with the development before me. With regard to the haulage site on the B488 mentioned by the appellant, I have not considered this as a precedent in my reasoning.
23. A query has also been raised in respect of whether or not the permission for the agricultural buildings is extant. However, there is no dispute between the main parties on this and I see no reason to disagree. I also consider the site to be a brownfield site; it has been developed and used for commercial purposes for some years.

#### *Conditions*

24. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In respect of the plans, I have imposed a condition specifying the drawings upon which I have based this appeal, as this provides certainty.
25. In order to safeguard the character and appearance of the area, I have imposed a condition requiring the materials used to be those indicated on the plans as well as conditions to provide planting on the existing bund and between the building and the road, and ensure its establishment.
26. I have also imposed a pre-commencement condition to ensure the site has adequate foul and surface water drainage, to ensure appropriate arrangements are made. Such arrangements are fundamental to the functioning of the development and to ensure there are no significant hazards to the wider public or environment. Although I appreciate the appellant has provided a plan showing the location of the cesspit associated with an earlier use of the site by Railtrack, I have no evidence before me to indicate that this is still in working order.
27. Finally, I have imposed a pre-commencement condition to ensure construction traffic is managed from the outset of the development, to ensure it has no adverse effects on highway safety or operation. I appreciate that the off-road area adjacent to the appeal site is largely hardstanding, but as the proposed building is close to the site entrance I consider it relevant to ensure construction traffic is contained within the site and its adjacent land.

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<sup>5</sup> Ref 14/00615/APP

28. I have however omitted the Council's suggested condition in respect of the laying out of the parking area prior to first occupation, as I concur with the appellant that given the extent of hardstanding on the site, the development's parking and manoeuvring requirements would not have an adverse effect on highway safety. Where necessary and in the interests of clarity and precision, I have altered the conditions to better reflect the relevant guidance.

### **Conclusion**

29. For the reasons given and taking all matters into account, I conclude that the development would not be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be allowed.

*Amanda Blicq*

INSPECTOR