

Appeal Decision

Site visit made on 30 September 2016

by Gareth Symons BSc(Hons) DipTP MRTPI

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

Decision date: 25 October 2016

Appeal Ref: APP/R3325/C/16/3149762

Land to the south of Unit 15, Lopen Business Park, Mill Lane, Lopen, Somerset TA13 5JS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr R Stone (Beehive Storage) against an enforcement notice issued by South Somerset District Council.
 - The enforcement notice, numbered 16/00045/OPERA, was issued on 24 March 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection of an industrial building on the land.
 - The requirements of the notice are: (i) Remove the industrial building from the land including in such removal the concrete oversight and foundations, and all services connected to the building; (ii) Remove from the land all building materials, rubble and detritus connected with the erection of the building and step (i) above.
 - The period for compliance with the requirements is six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed. It is directed that the enforcement notice be quashed. Planning permission is granted on the application deemed to have been made under S177(5) of the 1990 Act for the erection of an industrial building on land to the south of Unit 15, Lopen Business Park, Mill Lane, Lopen, Somerset TA13 5JS subject to the following conditions:
 - 1) The building shall be used for self-storage and for no other purpose (including any other purpose in Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
 - 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) there shall be no permitted change of use of the building under the said Order from self-storage.
 - 3) The area allocated for parking on Drawing No. DSGN0048_RP_P01 shall be provided before the building is first brought into use and it shall be kept clear of obstruction and not used thereafter other than for the parking and turning of vehicles in connection with the development hereby permitted.
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Main Issues

2. The main issues are the effects of the development on highway safety and the character and appearance of the area.

Reasons

Highway Safety

3. Based on the well accepted standard Trip Rate Information Computer System (TRICS), the appellant's highway consultant has calculated that the likely vehicle trip generation associated with the new 610 sqm of self-storage floorspace would be approximately 16 two-way trips over a twelve hour daily period. This would equate to roughly one vehicle arrival (2 two way movements) on average for each hour the unit would be open on a weekday. The Council's highway consultant has questioned the evidence derived from this computer based approach and suggested that it would have been better to have used real data based on the number of trips already associated with the larger existing Beehive storage building on the business park. However, there is nothing from the Council that undermines the validity of the computer prediction. Moreover, the appellant's consultant has made an assessment based on the existing movements to and from the larger existing storage facility which indicates that the 'real-time' movements could in fact be significantly lower on a pro-rata basis for the appeal building than predicted using TRICS. This data has not been disputed by the Council.
4. There are at least 18 businesses on the employment park operating within B1, B2 and B8 uses. I saw at my site visit around 25 vehicles parked in an area next to one building and various other vehicles parked around the site including the unloading of a heavy goods vehicle (HGV). Given the likely daily trip generation already associated with the existing businesses, even using the TRICS figure demonstrates that the new storage building would not materially increase overall vehicle movements and based on the 'real-time' predictions the overall increase would be relatively insignificant.
5. I acknowledge all of the concerns raised by the Council and its highway consultant about the carriageway inadequacies of Mill Lane and the substandard nature of the junction with Holloway in terms of visibility and geometry. However, the roads to the site already take traffic to and from the business park and there is no evidence that despite their nature they are dangerous to use. Given what I have found above, there is also nothing to show that the residual cumulative impact of the development on highway safety would be severe. As such I do not accept that any increase in traffic would compromise the safety and function of the road network.
6. The very limited increase in traffic may infringe marginally on sustainable development principles based on the need to reduce travel. However, the Government recognises that opportunities to maximise sustainable transport solutions varies from urban to rural areas. Any such downside would also be outweighed in my view by the positive economic benefits arising from allowing the current business to expand. Paragraph 28 from the National Planning Policy Framework (the Framework) is clear that planning policies should support economic growth in rural areas in order to create jobs and prosperity. Also, given my findings below there would not be a conflict with the environmental role of sustainable development in terms of the scheme's

acceptable impact on the character and appearance of the area. Consequently, as a whole the scheme would be sustainable development.

7. There is a S106 obligation in place covering the site from when planning permission (Ref: 00/00028/FUL) was granted by the Council for extensions, alterations and change of use of buildings from animal feed store to manufacturing/engineering. Covenant (e) requires, in short, the site owners not to carry out any development until "appropriate improvements have been carried out to Mill Lane and its junction with the A356 road to the reasonable specification and satisfaction of the Council and the Local Highway Authority".
8. However, there is no evidence to show what such appropriate improvements might be or whether they could meet a reasonable specification to the satisfaction of the Council. In any event, I have found that the appeal development would not harm highway safety and thus for this scheme there is no need for any highway improvements. Any breach or conflict with the S106 obligation is therefore a separate matter between the Council and the site owner away from this appeal. It is noted that the appellant has applied to the Council to discharge this particular covenant.
9. I note the highway concerns of Lopen Parish Council about increased levels of traffic through the village and HGV's in particular. However, there is no clear evidence about whether such concerns can be attributed to the business park or they are more general in nature. In any event, I have found that the development I am considering would not materially increase traffic levels and so it would not unduly add to local concerns. Concern that allowing the appeal would set a harmful precedent is unfounded in that there would be no harm arising from this scheme. In any event, each proposed development should be considered on its individual merits at the appropriate time.
10. In view of the above, the appeal scheme would not harm highway safety or the function of the local road network. As such it accords with the sustainable development and highway safety aims of policies TA5 and EP4 from the South Somerset Local Plan and the Framework.

Character and Appearance

11. The appeal building, which is substantially completed externally, is slightly removed from the siting of other existing buildings. However, it is within the curtilage of the business park and the area of associated hardstanding to the front and side is typical of many vehicle service and unloading areas found on warehouse and factory complexes. It's steel frame and metal clad construction is also in keeping with the appearance and proportions of the other large business units. Moreover, the site used to have a tall semi-derelict building on it that was not insignificant in size and the same height as the new building. While the replacement building may be slightly larger overall, there was established former development at this far end of the business park.
12. Moreover, from outside the site along the adjoining public footpath to the south the existing vegetation means that there are only a few glimpsed views of the appeal building through leaves. It has an imperceptible presence from this path. During the winter the natural screening may not be so effective but against the backdrop of the existing business park the new building would not look out of place. From the path to the west there are some clearer views of the building but from here the other existing factory units are also more visible

and so the new structure does not appear intrusive or disaggregated from other development.

13. The S106 obligation referred to above also required a landscaping scheme to be implemented. Although this agreement dates from 2001 it seems that the landscaping was never provided. However, whether or not the appeal building and its associated hardstanding incurs into the area of proposed landscaping, I have found the appeal development acceptable in landscape terms in its own right. Therefore, any contravention of the agreement is a separate issue to be resolved between the Council and the appellant. So too is reference by the Council to an open storage area which is not part of the appeal application.
14. In view of the above, I consider that the new warehouse has not harmed the character and appearance of the rural surroundings. As such, the development accords with the design and countryside protection aims of policies EQ2 and EP4 from the South Somerset Local Plan and the Framework.

Conditions

15. The Council has suggested five conditions to be imposed on any grant of planning permission. Given my findings about the acceptability of the building on design and landscape grounds it is not necessary to require a landscaping scheme in relation to the appeal building or for its external appearance to be changed. It is though justified for traffic and highway safety reasons to control the future use of the building and to ensure that the vehicle and parking and turning area is kept available for these purposes. I have slightly amended the parking condition in the interests of enforceability.

Conclusion

16. Having had regard to all other matters raised, it is concluded that the appeal should succeed.

Gareth Symons

INSPECTOR