The Planning Inspectorate

# Appeal Decision

Site visit made on 11 February 2020

**by Sarah Manchester BSc MSc PhD MIEnvSc**

**an Inspector appointed by the Secretary of State**

**Decision date: 20th April 2020**

**Appeal Ref: APP/A0665/W/19/3241146**
**Oakwood Farm, Unit 2, Parkgate Road, Saughall, Chester CH1 6EY**

- 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 Ms D Maines (Foxes Tea Rooms Limited) against the decision of Cheshire West & Chester Council.
- The application Ref 19/01611/FUL, dated 25 April 2019, was refused by notice dated 02 October 2019.
- The development proposed is change of use of land and building from B1 Light Industrial/ B8 Storage and Distribution to A3 Restaurants and Café with associated building works (Retrospective).

## Decision

1. The appeal is allowed and planning permission is granted for a material change of use of land and buildings from B1 Light Industrial/ B8 Storage and Distribution to a use of A3 Restaurants and Café with building work to facilitate the material change of use at Oakwood Farm, Unit 2, Parkgate Road, Saughhall, Chester CH1 6EY, in accordance with the terms of application ref: 19/01611/FUL, dated 25 April 2019, subject to the following conditions:

   1) The development hereby permitted shall be carried out in accordance with the following approved plans:
      - Location Plan, ref: TQRQM18333112632962, dated 29 Nov 2018;
      - Site Plan, ref: TQRQM18333113817544, dated 29 Nov 2018;
      - Rear elevation;
      - Front elevation;
      - Front elevation and floor plan of patio;
      - Floor plan and side elevation;
      - Internal Layout.

   2) The use hereby permitted shall only take place between the following hours: 0800 – 1400 Mondays – Sundays.

   3) The premises shall be used for a café and for no other purpose including any other purpose in Class A3 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).

## Procedural Matters

2. In May 2017, the Council advised that a temporary change of use of the premises to Class Use A3 (restaurants and cafes) was permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015.

Although the 2 year temporary period ended in June 2019, the premises are currently in use as a café and tea rooms. Therefore, I have determined the appeal on the basis that the proposal seeks to regularise the continuing use of the building as a Class A3 café.

3. The planning application additionally sought permission for alterations to the frontage, which have been carried out. The Council has stated that it has no concerns in respect of the alterations and I see no reason to disagree.

4. The appeal site is in the Green Belt. Although the reasons the application was refused do not relate to impacts on the Green Belt, there is nothing before me to indicate that an assessment was carried out in this regard. However, the policies in the National Planning Policy Framework (the Framework) relating to the protection of the Green Belt are relevant to my determination of the appeal. There is no evidence that the change of use of the building has any significantly different or greater impact on the Green Belt than the previously approved use, which was found to accord with the relevant local and national policies including those that related to the protection of the Green Belt in the 2012 Framework. On that basis, I am satisfied that the development is not inappropriate in, and it does not result in any harm to, the Green Belt.

## Main Issue

5. Therefore, I consider the main issue in this appeal is whether the site is a suitable location for the development, having regard to local and national policies relating to main town centre uses and sustainable development.

## Reasons

6. The appeal site is part of a former agricultural building at Oakwood Farm. This is a former farm complex in the countryside with planning permission (ref 13/01747/FUL) for change of use to guesthouse accommodation, light industrial and storage uses, and vehicle sales area. At the time of my visit, I also saw a dog grooming parlour, photography studio, pet shop[1] and a small caravan park and campsite. The appeal building is illustrated as B8 storage use on the approved plans. However, prior to its operation as a café, the appeal site was in B1 light industrial use for a period of approximately 6 months.

7. The site is accessed from the A540 which links Chester and Hoylake, close to its junction with the A494 and the M56 motorway. It is close to a National Cycle Route. There are bus stops on the adjacent road, which also has a footway along one side and street lighting.

8. Policy STRAT 2 of the Cheshire West and Cheshire Council Local Plan (Part One) Strategic Policies Adopted January 2015 (the CWCCLP1) seeks to focus new development in accordance with the settlement hierarchy, from urban areas through to smaller rural settlements. Policy ECON 2 of the CWCCLP1 confirms the locational approach applies to retail, leisure and other town centre uses.

9. The definition of main town centre uses in the glossary to the Framework includes more intensive sport and recreation uses, of which restaurants and drive-through restaurants are listed as examples. Although cafés and tea rooms are not specifically referred to, the list is not exhaustive and it is not a

[1] Subject of appeal ref APP/A0664/W/19/3241288

closed list. Therefore, it does not preclude other more intensive A3 uses from being main town centre uses.

10. In this case, there is no evidence that the café and tea rooms is an intensive use of the site. It is a small premises and the café is open from 0800 until 1400. Moreover, the appellant confirms that she is no longer seeking to extend the opening hours and accepts that the current hours of operation could be secured by condition. Furthermore, by virtue of the small size of the premises, the development is a relatively low impact use and it does not trigger the need for an impact assessment. In this respect, the Council accepts that the café has a limited impact on the existing centres.

11. However, the café is not ancillary to, and it is not proposed to serve, a neighbouring use. There is no direct functional need for a rural location. Therefore, it is not a small scale rural development.

12. In accordance with the Framework, Policy ECON 2 of the CWCCLP1 requires that a sequential test be applied to proposals for main town centre uses that are not in an existing centre. I accept that cafes and coffee shops are well represented in existing centres and that the development is a low impact use. However, this does not demonstrate that a sequential town centre first approach has been applied and it does not justify the rural location.

13. Nevertheless, and although it is not in a settlement, the café is not in a remote or isolated location. While a proportion of customers will travel by private car, the site is accessible by more sustainable modes of transport including walking, cycling and public transport. Moreover, while the caravan and camping site at Oakwood Farm is too small to sustain it, the café is well-located to serve it and other nearby tourist accommodation, occupiers and customers of neighbouring business units, nearby residential occupiers, cyclists and passing trade.

14. A proliferation of town centre uses outside of existing centres would adversely affect the vitality and viability of existing centres, in conflict with the Council's strategic development locational strategy. However, there is no evidence that the operation of the café in this location since 2017 has resulted in any tangible harm to the existing centres. On this basis, it seems reasonably unlikely that its continuing use would result in any greater impact.

15. In respect of the redevelopment of employment sites to non-employment uses, Policy ECON 1 of the CWCCLP1 requires that the proposed use is compatible with existing retained employment uses in the locality; that it would not limit the range, choice and quality of employment sites to meet future needs; and the continued use of the premises for employment use is no longer commercially viable. Policy DM 5 of the CWCCLP2 sets out that reasonable attempts should have been made to let or sell the premises and there is no reasonable prospect of the site being re-used for employment uses.

16. In this case, the café is compatible with the neighbouring employment uses. It is not in a strategically important employment location, business park or industrial estate. There is no evidence that the appeal site is essential to maintaining the mix and level of provision of employment sites. In any case, there is no evidence that the appeal site was in B8 use prior to the development. Therefore, although it has not been marketed for B8 use, there appears to be little significant conflict with the aims of Policy ECON 1 of the CCWCLP1.

## Planning balance

17. The café is not a rural development and there is no functional need for a rural location. However, it is a small scale and low impact use. It is not significantly detrimental to the vitality and viability of town centres or to the supply of employment sites. In the absence of significant harm, the development results in limited conflict with the locational development aims of Policies STRAT 2 and ECON 2 of the CWCCLP1.

18. On the other hand, although not in or on the edge of a settlement, the café is not remote from built development. In this respect, it complements neighbouring uses including nearby tourism developments and it is accessible by non-car modes of transport, including the nearby cycle route. In addition to contributing to rural tourism, the development supports 6 employees. These are matters that weigh moderately in favour of the scheme in this location.

19. Therefore, there are benefits of the development and these are material considerations that outweigh the limited harm resulting from the tension with the Council's locational development strategy. Consequently, the development complies with the development plan and Framework, when read as a whole.

## Conditions

20. In the event that the appeal was allowed, the Council has suggested a planning condition restricting the use of the premises. I have considered this against the requirements of paragraph 55 of the Framework and the Planning Practice Guidance.

21. The small scale and low impact nature of the development has been a determinative factor in my assessment of the scheme. Therefore, it is appropriate to restrict the use of the site in order to protect the vitality and viability of existing centres. For the same reasons, a condition specifying the hours of operation is also necessary.

22. In addition, I have specified the approved plans in the interests of certainty.

## Conclusion

23. For the reasons set out above, I conclude that the appeal is allowed and planning permission is granted, subject to conditions.

*Sarah Manchester*

INSPECTOR