



Appeal Decision

Site visit made on 22 June 2020

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2020

Appeal Ref: APP/C1760/W/19/3242179

Grain Buildings, Forest of Bere Estate, Moor Court Lane, Up Somborne SO20 6RA

- 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 Mr John Kelly against the decision of Test Valley Borough Council.
 - The application Ref 18/01719/FULLS, dated 3 July 2018, was refused by notice dated 27 June 2019.
 - The development proposed is change of use of land and buildings from sui generis (agricultural buildings) to B1 (light industry and offices) and B8 (storage).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land and buildings from sui generis (agricultural buildings) to B1 (light industry and offices) and B8 (storage) at Grain Buildings, Forest of Bere Estate, Moor Court Lane, Up Somborne SO20 6RA in accordance with the terms of the application, Ref 18/01719/FULLS, dated 3 July 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. Two completed unilateral undertakings (UU) are before me, one dated 18 June 2019 and another dated 16 September 2020. Both make the same obligations and both would take effect on commencement of the development in the event of the appeal being allowed. The duplication on the local land charges register is unnecessary but it does not otherwise affect my consideration of the appeal.
3. Subsequent to the Council's decision, the Town and Country Planning (Use Classes) Order 1987 was amended. The Regulations provide that where a planning application referring to the old system of use classes is submitted prior to 1 September 2020 that application must be determined by reference to those use classes. Nevertheless, the parties have had the opportunity to comment on the implications for their respective cases.

Main Issue

4. The main issue to be considered is the effect of the proposal on the function, safety and character of the local highway network.

Reasons

5. The appeal site has an area of approximately 0.77 ha and is located to the south of Moor Court Lane. It comprises four vacant agricultural buildings and a series of grain silos, with associated areas of hardstanding. The buildings have a combined floor area of roughly 2000 m². Vehicular access is onto Chalk Vale which links to Ashton Road approximately 2.5 km to the west. This route is for the most part a single track road, but it is of adequate width for heavy goods vehicles (HGVs) and has a number of informal passing places along its length. Several passing bays were constructed on Chalk Vale and Ashley Road, and some haunching of damaged sections carried out, using Section 106 monies from the Forest Extra site which is located a short distance from the appeal site. That site was granted planning permission on appeal¹ in September 2015 for a mix of commercial uses which had been specified in an enforcement notice.
6. Forest Extra is not a direct replica of the appeal proposal, being more akin to a general industrial use, but there are sufficient similarities in terms of the size, location and nature of the use to enable comparisons to be drawn between the two sites. This was accepted by the Highway Authority at the application stage, and in the absence of any better comparators from the TRICS[®] database this is a suitably robust approach.
7. In 2013, the Council's officers undertook an assessment² of the vehicle movements connected with the Forest Extra site in connection with a planning application³ for change of use to Class B1 Offices, Class B2 Industrial and Class B8 Storage and Distribution. A traffic count recorded 218 vehicle movements on the road between Strawberry Lane and the Forest Extra access over an average weekday, with 25 movements in each of the AM and PM peaks. The survey found that less than 20% of vehicle movements along Chalk Vale were by HGVs.
8. The Council's analysis remains relevant. Applying the above trip rates pro rata to floor area, the appeal scheme is predicted to generate 6 vehicle trips during each of the AM and PM peaks and 55 vehicular trips over the period 0700 to 1900 hrs. Using the appellant's more up-to-date traffic count data from 2019, which showed only 9 and 13 vehicle movements connected with Forest Extra in the AM and PM peaks, the predictions for the appeal site would be 2 and 3 movements respectively. Whether using the 2013 data or the 2019 data, the trip generation of the appeal scheme would be modest.
9. The inadequacies of the highway network in the area leading to main roads were acknowledged in the appeal decision for Forest Extra, but the Inspector deemed that there were sufficient measures being provided to allow the scheme to be approved. These measures included the provision of additional passing bays and monies to progress traffic orders, as well as a UU to secure a lorry routing agreement which seeks to route traffic via Chalk Vale, thus avoiding Strawberry Lane and Chalk Hill.
10. A substantially similar UU has been provided by the appellant. Although matters of enforceability have been questioned, the previous Inspector was satisfied that it could be adequately policed. There is no new evidence to lead me to a different conclusion, particularly as there is now a 6'6" width

¹ Appeal Decision APP/C1760/C/14/2217061

² Highways Technical Note, TVBC Senior Transport Engineer 01/10/13

³ Council Reference 12/01765/FULLS

restriction in place for Strawberry Lane and a 7.5 tonne weight restriction for Chalk Hill. These direct all but the smallest commercial vehicles along Chalk Vale which is the route most suitable for such traffic and the one least likely to affect the residents of Up Somborne. The appellant intends to include this routing agreement within tenant contracts.

11. I note that there is anecdotal evidence of vehicles breaching the lorry routing agreement and traffic orders. There can be no guarantee that the development would not generate any traffic along Strawberry Lane and Chalk Hill. However, the UU should pick up the majority of delivery vehicles and road signage should achieve a high level of compliance as regards the weight and width restrictions. This would minimise any residual impacts on the village. Monitoring and enforcement are matters for the relevant authorities and in my view the appellant should not be penalised for any failure to act.
12. The Council contends that there is insufficient provision for vehicle passing bays on Chalk Vale. The recently completed passing places were deemed adequate for the traffic generated by Forest Extra, predicted to be up to 25 movements during peak hours. The appeal proposal is forecast to generate an additional 6 vehicles an hour at the busiest times, an increase of approximately a quarter. However, this equates to 1 vehicle every 10 minutes which would not be noticeable. The latest traffic data shows vehicle movements in the busiest peak hours to be tidal and there is no reason to think the appeal scheme would be any different; this would minimise the risk of vehicles meeting head-on.
13. The Council argues that it is premature to consider the effectiveness of the passing bays, due to the fact that they have only recently been constructed. However, they were deemed acceptable by the Highway Authority and the appeal Inspector for the Forest Extra site. There is no evidence before me to demonstrate that they will not serve their intended purpose.
14. Drivers do not have direct line of sight between passing places and therefore I cannot rule out the possibility that some vehicles would need to reverse. This would be infrequent but in any event there is no firm evidence to demonstrate that such manoeuvres are unsafe, or that they would harm the function of the highway network for other users. Given the low traffic volumes and speeds (the latter being a factor of the alignment, width and rural nature of the roads), there is nothing to convince me that the modest increase in the number of large vehicles would present a hazard for pedestrians and cyclists. Accident data does not reveal any highway safety concerns or accident patterns in the local area, and this lends weight to the appellant's case.
15. I have noted the concerns regarding the impacts of additional traffic on grass verges. However, the formal passing places and haunching of damaged parts of Chalk Vale would avoid the need to use verges. I saw no obvious signs of damage to verges at the time of my visit and given my conclusions above have no reason to think that the proposal would lead to a significant problem in this regard. The existing lorry routing agreement means that HGVs already use Chalk Vale and so the proposal would not damage overhanging trees. For these reasons, I do not consider that the proposal would harm the character of the highway network.
16. I am mindful that the lawful agricultural use of the site would lead to seasonal farm vehicle movements and the nature of farming means that these could be heavy. Although these have not been quantified they would offset, at least in part, the traffic impacts of the appeal scheme. That said, the acceptability of the

scheme does not hinge on this point, as there can be no certainty that the site would be brought back into agricultural use if this appeal fails.

17. Paragraph 109 of the National Planning Policy Framework (the Framework) indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Both the Council and residents allege a severe impact, but this is not evidenced.
18. Accordingly, I conclude that the proposal would not have an unacceptable adverse effect on the function, safety and character of the local highway network. There would be no conflict with Policy T1(d) of the Test Valley Borough Revised Local Plan 2011-2029 (TVBRLP) in this regard.
19. Even if I had found harm in respect of highway issues, it could only have been slight and the benefits of the proposal on the availability of employment floor space in the Borough (including jobs and investment) and the re-use of buildings that would otherwise be derelict would have outweighed that harm.

Other Matters

20. Aside from its concerns on highway issues, the Council has not objected to the principle of development. The appeal scheme would comply with TVBRLP Policies COM2 and LE16 which allow for the re-use of buildings in the countryside for commercial use. The proposed change of use relates to the buildings only and those buildings appear structurally sound. Conditions would restrict external storage and control locations for vehicle parking, the demand for which could easily be met within the site compliant with TVBRLP Policy T2 and the Council's parking standards. There would be no adverse impact on the landscape or the character and appearance of the local area and no conflict with TVBRLP Policy E2. New landscaping would enhance the immediate setting of the buildings.
21. Despite its rural location, there is no requirement under development plan policy for the scheme to make provision for access by public transport. Framework paragraph 84 recognises that sites to meet local business needs in rural areas may have to be found in locations that are not well served by public transport. The proposal would provide some opportunities for car sharing which in itself is a sustainable transport mode. A public footpath links Moor Court Lane with Strawberry Lane and this would assist local workers in walking to the site.

Conditions

22. The Council has suggested conditions for use in the event that I am minded to allow the appeal and the appellant has had an opportunity to comment upon these. I have considered the conditions having regard to the six tests set out within paragraph 55 of the Framework and the Planning Practice Guidance.
23. To provide certainty, I have imposed conditions to specify the approved plans and to restrict the uses to those being applied for. In the interests of the character and appearance of the area conditions are necessary to require the submission of a landscaping scheme and its implementation in accordance with an agreed management plan and timetable.
24. Storage of goods, plant and materials outside of the buildings has not been factored into the analysis of traffic generation and also has the potential to

industrialise the site to the detriment of its rural character. A condition to restrict external storage is therefore justified.

25. The Council has requested conditions to control hours of operation and reversing alarms for site based vehicles (the latter to be of the white noise variety rather than those that beep). The suggested wording is identical to those conditions imposed on the planning permission for the Forest Extra site. I agree that such conditions are also reasonable in this particular case, in the interests of the amenities of those living near the site.
26. The proposed site plan was indicative to demonstrate that the site could accommodate the required level of parking. A condition is needed to ensure the parking is provided, but I have reworded it to require the provision of parking in accordance with details to be submitted, in order to provide flexibility.
27. The traffic analysis is based on the Forest Extra site and does not rely upon a 50/50 split of B1 and B8 uses on the appeal site. However, the appellant's own Transport Statement assumes this division and it was the basis on which the Highway Authority accepted the scheme. Should the mix of activities on the appeal site become heavily biased towards one or other use this would have the potential to have different highway impacts and may require separate analysis. I am therefore satisfied that the suggested conditions restricting half of the floor area to light industry and/or offices and the other half to storage and distribution pass the tests of necessity and reasonableness.

Conclusion

28. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers: WNB420172_201A, WNB420172_202A, WNB420172_203, WNB420172_204 and WNB420172_205.
- 3) The uses hereby permitted shall not commence until full details of soft landscape works have been submitted to and approved in writing by the local planning authority. The submitted details shall include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and numbers/densities. The landscape works shall be carried out in accordance with the management plan and implementation programme approved under condition 4.
- 4) The uses hereby permitted shall not commence until a schedule of landscape management and maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and an implementation programme, shall be submitted to and approved in writing by the local planning authority. The approved management plan shall be carried out in accordance with the implementation programme.
- 5) No building shall be occupied until a plan showing the areas to be used for the parking of vehicles in connection with that building has been submitted to and approved in writing by the local planning authority. The parking shall be provided in accordance with the approved details, before the building is first brought into use for the uses hereby permitted, and it shall be retained thereafter.
- 6) The premises shall be used for light industry, offices, and/or storage and distribution and for no other purpose. They shall be used for no other purpose without a grant of planning permission.
- 7) No more than 1003 square metres (gross internal floor space) of the buildings the subject of this permission (annotated as buildings A, B, C and D on Drw.No.A-WNB420172_202A) shall be used for storage and distribution (including ancillary activities associated with that main use) at any one time.
- 8) No more than 1003 square metres (gross internal floor space) of the buildings the subject of this permission (annotated as buildings A, B, C and D on Drw.No.A-WNB420172_202A) shall be used for light industry and/or offices (including ancillary activities associated with that main use) at any one time.
- 9) No machinery shall be operated on the land, no process shall be carried on and no deliveries taken at or dispatched from the land except between 0730 hours and 1800 hours Mondays to Fridays, and 0830 to 1300 hours on Saturdays. None of these activities shall take place on any Sunday nor on any day that is a Bank or Public Holiday.

- 10) No goods, plant or materials shall be stored outside of the buildings (or displayed for sale in the open) on the site.
- 11) All site based vehicles (e.g. forklift trucks and lorries) which are fitted with reversing alarms shall use a white noise type reversing alarm instead of a 'bleeper' type alarm.

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