
Appeal Decision

Site visit made on 9 March 2021

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 19 May 2021

Appeal Ref: APP/Q3305/W/20/3263714

Land at 357893 149950 Roemead Road, Green Ore, Wells Somerset

- 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 C Smart Agricultural Services Ltd against the decision of Mendip District Council.
 - The application Ref 2019/1368/FUL, dated 1 May 2019, was refused by notice dated 22 September 2020.
 - The development proposed is the erection of agricultural machinery sales, repairs and distribution centre (mixed use A1/B1/B2/B8).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of agricultural machinery sales, repairs and distribution centre (mixed use A1/B1/B2/B8) at land at 357893 149950 Roemead Road, Green Ore, Wells Somerset in accordance with the terms of the application, Ref 2019/1368/FUL, dated 1 May 2019, subject to the conditions contained within the attached schedule.

Application for costs

2. An application for costs was made by C Smart Agricultural Services Ltd against Mendip District Council. This application is the subject of a separate Decision.

Main Issues

- a) The main issue is whether or not the proposed development would be of a manner and scale appropriate to the location, taking into account its dominance, landscape impact, light pollution and also its effect on highway safety.

Reasons

3. The appeal site is a portion of a field situated a short way from Green Ore crossroads, where the A39 and B3135 intersect. The site rises from the B3135 and to the north-west is a garage and a relatively new dwelling. To the north-east, on the far side of the B3135, is a small industrial estate containing a vet and farm services, a self-storage facility and a horticultural works. Beyond the appeal site to the south-west and south-east are open fields. The site is outside of any development limits and close to the Mendip Hills Area of Outstanding Natural Beauty (AONB), which starts on the north-western side of the crossroads.

4. Green Ore is a small settlement that has evolved around the crossroads. As well as the garage and industrial estate there is a pub and a number of dwellings.

Dominance

5. The proposed building would be partially two storey, of a simple utilitarian design with a grey profiled metal clad roof and metal clad walls over a brick plinth. It would have a relatively large footprint, and there would be areas for parking and machinery storage on all sides. The proposal as a whole would result in development extending a considerable way along the B3135 from the crossroads, as well as beyond the existing garage to the south-west.
6. However, the building would be set back from the road and would be set into the rising ground. Furthermore, hedge and tree planting with native species would be carried out around it. These measures would serve to mitigate the impact of the building.

Landscape impact

7. On approaching along the B3135 from the south-east, glimpses of the proposed building would be visible through the existing and proposed screening, but the building would be seen in the context of the existing garage buildings beyond it and the copses of trees beyond them. On approaching along the B3135 from the crossroads the proposed building would be seen as an extension of built form in this direction although the set-back would help to lessen the visual impact.
8. On approaching along the A39 from the north-east the proposed building would be barely discernible beyond the buildings of the existing industrial estate and would in any case be largely shielded by existing trees and hedges. Arriving at Green Ore crossroads along the A39 in the opposite direction the proposed building would be glimpsed between existing buildings but would be set at a lower level. There is also a considerable amount of screening to the south-east side of the A39 in this direction.
9. The AONB is beyond the proposed development predominantly to the north-west, although there is a portion of it to the south. This latter portion is however a considerable distance away with many fields between the AONB and the proposed development. The section of the AONB to the north-west would be separated from the proposed development by existing development and screening and consequently the proposed development would not have an adverse effect on the AONB.
10. Overall therefore, the proposed building, although visible from several directions, would not appear dominating or cause significant harm to the landscape.

Light pollution

11. In terms of light pollution, a condition has been suggested that would prevent external lighting between the hours of 19.00hrs and 06.00hrs except in the event of intruders. As there are already commercial premises with lighting in the vicinity, I consider that with the imposition of the suggested condition, the proposed development would not be overly intrusive.

Highway safety

12. I note that during the course of the application the proposed access has been reduced from two access points to a single one which has been moved further from the crossroads than originally proposed. I also note that trip generation information has been supplied and that the highway authority has no objection to the proposal. In the absence of any significant evidence to the contrary I conclude that the proposed development would not adversely affect highway safety.

Policy

13. Policy CP1 of the Mendip District Local Plan 2006-2029 (LP) makes clear that development in the open countryside will be strictly controlled and may exceptionally be permitted in line with the provisions set out in policy CP4. This latter policy relates to sustaining rural communities and contains seven criteria. Of these only criterion 4b is directly relevant to the proposed development and this criterion explains that proposals for development of the rural economy as set out in policy CP2 of the LP which enable the establishment, expansion and diversification of businesses in a manner and of a scale which is appropriate to the location and the constraints upon it will be supported. However, policy CP2 relates to housing and I cannot see that it is relevant to this application.
14. Policy CP3 would seem to be more applicable as it relates to supporting business development and growth. This policy indicates that proposals for economic development will be supported where they comply with a number of criteria. These include that the proposed development encourages a diverse, robust, thriving and resilient local economy; enhances the image of the area as a business location; limits the growth in demand for private transport and are accessible by sustainable transport modes and offers higher quality job opportunities to local people or improve the skills of the resident workforce.
15. In respect of policy CP3, the proposed development would encourage the local economy and potentially offer some higher quality job opportunities to local people. The appellant has suggested that 20 jobs could be created and I have no significant evidence to contest this figure. There would also be indirect economic benefits.
16. The proposed development would replace the appellant's existing premises at Cheddar and the design and access statement informs that the existing 20 employees will relocate, but that this will not necessarily mean an increase in travelling time or distance. I note that the appeal site is considered an ideal location for the business in terms of being central to the customer base, and that five alternative sites have been considered and rejected. Whilst the proposed development is not particularly accessible by sustainable transport modes it seems to me that there is no evidence to show that overall trip generation would be any greater than that produced by the location of the existing premises.
17. I consider therefore that, in the round, there is compliance with policy CP3. In arriving at this conclusion I am also aware that paragraph 84 of the National Planning Policy Framework (the Framework) makes clear that *planning decisions should recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements and in locations that are not well served by public transport.*

18. With respect to policy CP4 I have found that there would be no adverse effects from light pollution or highway safety, that the proposed building would not be overly dominant and that there would be no significant harm to the landscape or the AONB. I acknowledge that the very act of introducing built form into a rural landscape can be construed as causing a degree of harm, that could in turn indicate a conflict with policy CP4. However, in this particular case any such harm is, to my mind, comprehensively outweighed by the overall benefits of the scheme.

Conditions

19. The conditions included within the attached schedule are those suggested by the Council. To ensure the satisfactory character and appearance of the finished development I have imposed conditions relating to landscaping works, external lighting, external finishing materials, the provision of recycling and waste containers and for further details of the allowed storage container to be supplied and approved. I have also imposed a condition restricting extensions or alterations to the allowed building. In doing this I am aware that the Planning Practice Guidance makes clear that the removal of permitted development rights should only be undertaken in exceptional circumstances. However, given the wording of policy CP1 which makes clear that development in the countryside will be strictly controlled and that development may exceptionally be permitted in line with CP4, I consider this to be prudent in this particular case.
20. In the interests of ecology I have imposed a condition preventing the removal of trees during the nesting season and a condition requiring the installation of swift nest boxes. For the same reason I have imposed a condition requiring compliance with the recommendations relating to reptiles contained in the Ecology Survey by David Leach Ecology Ltd. To ensure highway safety I have imposed conditions relating to the proposed access, visibility splays and parking and turning areas.
21. To prevent flooding I have imposed a condition requiring the submission and approval of a sustainable drainage scheme. As the site is within an area of significant archaeological interest I have imposed a condition requiring the implementation of a programme of archaeological work in accordance with a scheme of investigation.
22. To ensure the amenity of neighbouring occupiers I have imposed a condition requiring a Construction Method Statement and a further one to control the hours of opening of the completed development. To promote sustainability I have imposed a condition requiring the submission of a travel plan and a further one requiring the provision of covered bicycle storage. Finally for certainty I have imposed a condition detailing the drawings that accompanied the planning application.

Conclusion

23. In light of the foregoing, and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Wilde

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 be carried out in accordance with the following approved plans: 17203 – 1 existing site survey, 17203 – 2 rev C proposed site and location plan, 17203 – 3 proposed ground and first floor plans, 17203 – 4 proposed elevations, 9174 – 01 rev B, 9174 – 02 contours and exceedance.
- 3) No machinery shall be operated, processes carried out or deliveries taken at or despatched from the site; and no customer shall be served or remain on the premises outside the hours of 07:00 to 19:00 on any day.
- 4) 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) no extension, external alteration or enlargement of building hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.
- 5) No development shall commence until the visibility splay shown on Site Plan Dwg No: 17203-2 rev C has been provided. There shall be no on-site obstruction exceeding 600m above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) delivery and construction working hours;
 - vii) Construction vehicle movements.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 7) The vehicular access hereby approved shall be constructed in accordance with details shown on Site Plan Dwg No: 17203-2 rev C prior to the occupation of development. For the avoidance of doubt, the driveway between the edge of carriageway and the entrance gate(s) shall be properly consolidated and surfaced (not loose stone or gravel) in accordance with the approved details. The vehicular access shall thereafter be permanently retained in accordance with the approved plans.

- 8) No occupation shall commence until the parking and turning areas have been constructed in accordance with details shown on Site Plan Dwg No: 17203-2 rev C. The parking and turning shall thereafter be kept clear of obstruction and shall not be used other than for the manoeuvring and parking of vehicles in connection with the development hereby permitted.
- 9) No occupation of the development shall commence until covered bicycle storage for at least 6 bicycles and parking for motorcycles has been provided in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. The bicycle and motorcycle parking shall be retained permanently thereafter.
- 10) Prior to the commencement of the development, a Travel Plan is to be submitted to and approved in writing by the Local Planning Authority. Such Travel Plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards by which to measure the success of the plan. There should be a timetable for implementation of the measures and for the monitoring of travel habits. The development shall not be occupied unless the agreed measures are being implemented in accordance with the agreed timetable. The measures should continue to be implemented as long as any part of the development is occupied.
- 11) All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.
- 12) The development hereby approved shall be carried out using external facing materials as specified on the application plans.
- 13) No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, number, luminance, angle of illumination and type of each luminaire or light source and a lux diagram showing the light spill from the scheme. The lighting shall thereafter be installed, operated and maintained in accordance with the approved details. The approved external lighting shall only be switched on between 06:00 and 19:00 hours on any day, with a motion sensor security light override to the building and site lines.
- 14) No removal of trees hedges or shrubs shall take place between 1st March and 31st August unless a Survey to assess the nesting bird activity on the site during this period and a Scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No tree hedge or shrub shall be removed between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

- 15) The development hereby approved shall be carried out in accordance with the recommendations relating to Reptiles at section 5.3.4 of the Ecology Survey by David Leach Ecology Ltd dated July 2018.
- 16) No occupation of the approved development shall commence until Six Woodstone swift nest boxes or similar have been mounted at least 60cm apart, under the eaves of north east facing elevation. The nest boxes shall be retained thereafter in perpetuity.
- 17) The development hereby approved shall not be occupied until provision for the storage of recycling and waste containers has been made within the site in accordance with details, including means of enclosure, that have first been submitted to and approved in writing by the Local Planning Authority.
- 18) The proposed storage container shall not be installed or sited until details of its design and external appearance have first been submitted to and approved in writing by the Local Planning Authority.
- 19) No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a programme of phasing, implementation and maintenance for the lifetime of the development and subsequently be implemented in accordance with these approved details.
- 20) No development shall commence, except archaeological investigation work, until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.