
Appeal Decisions

Site visit made on 26 October 2021

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decisions date: 2nd November 2021

Appeal A Appeal Ref: APP/J1915/W/21/3271958

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1457/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of Polytunnel A.
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Appeal B Appeal Ref: APP/J1915/W/21/3271959

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1459/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of Polytunnel B.
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Appeal C Appeal Ref: APP/J1915/W/21/3271961

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1460/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of Polytunnel C.
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Appeal D Appeal Ref: APP/J1915/W/21/3271962

Land off Ford Lane, Aston End, Stevenage SG2 7HG

- 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 Cupids Green Ltd. against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/1456/FUL, dated 30 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is the erection of agricultural storage building with incorporated office and respite area, creation of new access and formation of hard standing within site, siting of 2 no. water storage tanks.
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Decisions

1. Appeals A,B,C and D are dismissed.

Procedural Matters

2. As is set out above, there are 4 appeal sites and proposals at the same address. The appellant has stated that they are linked as they are all required in connection with the same proposed business involving container grown plants as an agricultural enterprise. The various elements would be in close physical and functional juxtaposition to one another and so they could not reasonably be seen as isolated elements that could be treated as severable, including by way of the issues that arise. Hence, I have dealt with the 4 proposals together. The matters of dispute with the Council as set out in the reasons for refusal on the decision notices are also the same in each case.
3. The description of development for Appeal D in the banner heading above is taken from the planning application form. After the submission of the application, the description was amended to include reference to the provision of 4 car parking spaces, a shed together with associated boundary works. I have considered Appeal D on that basis as it better reflects this proposal.
4. The revised National Planning Policy Framework (revised Framework) has been published since the Council made its decisions. The main parties have had the opportunity to comment on this matter during the course of the appeals. I have considered it in my decisions.

Main Issues

5. The main issues for Appeals A, B, C and D are the effect of the proposals on (i) water quality; and (ii) the character and appearance of the area.

Reasons

Water Quality

6. The appeal sites lie within a Source Protection Zone (SPZ). This is a defined area around large and public potable groundwater abstraction sites. The purpose of such a designation is to provide protection to safeguarding drinking water quality. As such, there is the potential for the discharge and abstraction of water related to a development in an SPZ to directly impact on water quality. The sites also lie a short distance from the River Beane, which is a chalk stream. The topography of the land slopes gradually from the sites towards this watercourse.
7. The SPZ is also afforded protection under Policy WAT2 of the East Herts District Plan (2018) (Local Plan). It lists a number of uses where development proposals will be required to submit an assessment of potential impacts and any mitigation measures required. These include the discharge of foul sewage to ground. Policy WAT3 of the Local Plan also affords protection to water quality and the water environment. Whilst controls outside of the planning system also safeguard groundwater protection, it is therefore a planning consideration in as far as deciding whether the proposals are an acceptable use of land in the SPZ.

8. The proposals intend to utilise a sewage treatment plant. The proposed likely system would remove up to 97.5% of the pollution, with the remaining fluid discharging via a gravel filled French Drain to a discharge field, before it reaches the groundwater resources. Whilst this provides an outline of the proposed means of foul water disposal, it provides a limited assessment of what the impact on the SPZ and the River Beane would be, related to the provision of the infrastructure that would be involved. Thus, there is insufficient evidence to demonstrate that unacceptable harm would not occur, even if low levels of foul water would be generated.
9. The information on the proposed surface water drainage is also limited. Reference is made to the use of rainwater harvesting and water storage, but the appellant acknowledges that if this was not deemed appropriate, then the drainage strategy would have to be rethought. The use of water abstraction is also said to be likely, but there is also limited information on this type of infrastructure and the effects.
10. The appellant considers that the imposition of planning conditions could deal with such matters. However, this belies the sensitivity of the location because of the SPZ and the River Beane. For this to be done after the grant of planning permissions could potentially nullify their effect if the impacts could not be adequately mitigated. Such conditions would not therefore be reasonable.
11. Whilst I appreciate that the potential cost of preparing such an assessment and the technical specification prior to a planning decision may be seen as a burden for rural business, the same level of protection has to apply irrespective. Otherwise there would be the potential for the SPZ to be contaminated by activities associated with such development. The Environment Agency has not objected to the proposals. However, the advice given is of a general nature. None of these matters change my conclusion.
12. In drawing the above considerations together, I conclude that the proposals would have an unacceptable effect on water quality. Accordingly, they would not comply with Policy WAT2 because the limited information provided does not reasonably amount to the policy requirement to provide an assessment of potential impacts and any mitigation measures. They would also not comply with Policy WAT3 where it states that development proposals will be required to preserve or enhance the water environment, ensuring improvements in surface water quality and the ecological value of watercourses and their margins and the protection of groundwater.

Character and Appearance

13. Where the proposed building and structures would be located comprises part of an open field that is well set back from Ford Lane. It is bounded by a hedgerow on one side. A narrow strip of part of the field that extends towards Ford Lane would form the access. There is some evidence of sub-division in the field by way of post and wire fencing, as well as an existing separate track access and an area that is in use for dog training. The river lies roughly 100 metres to the east of the sites. A Public Right of Way (PRoW) runs alongside the river.
14. Under the Council's Landscape Character Assessment Supplementary Planning Document (2007) (SPD), the sites lies within the Middle Beane Valley

Landscape Character Area. Its character is one of open arable farmland, hedgerows and small grouped woodland. The medium to large scale field pattern is in clear evidence in the vicinity of the sites, as are the undulating slopes on either side of the river itself. It was evident from my site visit that whilst the area is not devoid of development, it is a landscape where development is of a limited nature, including the occasional farmstead and isolated individual buildings.

15. As the proposals would consist of a modern barn-like storage building, polytunnels and the associated infrastructure, they would not be untypical for an agricultural development. They would not be out of keeping in these countryside surroundings. There is not an established built form because development is limited. Nevertheless, the proposals reflect an agricultural landscape character.
16. In terms of the visual impacts, the proposals would be well set back from the road and the PRoW. They would not be intrusive because of the agricultural form. The heights would be fairly modest and the appearance would be inconspicuous, being of green cladding on the storage building and sheeting or netting on the support frames of the polytunnels. The density would also limit wider visual and cumulative impacts because the proposals would be clustered together. The landform would also assist in this regard because the proposals would be sited towards the bottom of the river valley.
17. The proposals would also benefit from some screening afforded by the adjacent hedgerow and the appellant has also offered to provide more planting. If I was minded to allow the appeal, this could be achieved through the imposition of a Grampian type planning condition as the appellant has indicated control over the land in question, and there is not substantive evidence to the contrary. This would further limit both long and short views.
18. Policy DES2 of the Local Plan affords protection to landscape character and refers to the need for a Landscape and Visual Impact Assessment (LVIA) or equivalent in specified circumstances. As there would not be a potential adverse impact on landscape character, an LVIA is not required.
19. The revised Framework places an emphasis on achieving well-designed places. As the proposals would have an appearance that befits their agricultural use and would be sited within the context of an agricultural landscape, there would not be a conflict with the revised Framework in this regard. The proposals would not be poorly designed.
20. I conclude that the proposals would not have an unacceptable effect on the character and appearance of the area. As a result, they would comply with Policy DES2 as they would conserve, enhance or strengthen the character and distinctive features of the district's landscape, provide appropriate mitigation measures and as they have had regard to the SPD.

Other Matters

21. The sites lie in the Green Belt. The Council considered that the proposals would not constitute inappropriate development. I see no reason to disagree as the revised Framework identifies that buildings for agriculture are not inappropriate development in the Green Belt.

22. The proposals would support the rural economy through the development of a rural business and would generate a level of employment. What is proposed clearly relates to the type of agricultural business that would operate. The unacceptable effect on water quality however significantly counts against the proposals. All other matters raised attract neutral weight. As a consequence, the economic benefits would not outweigh the harm that would arise.
23. Interested parties have raised a number of other concerns. However, as I am dismissing the appeals on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decisions.

Conclusion

24. The effect on water quality would be unacceptable and is decisive. Accordingly, I conclude that the proposals conflict with the development plan when taken as a whole and there are no material considerations to outweigh this conflict. Therefore, Appeals A, B, C and D should be dismissed.

Darren Hendley

INSPECTOR