
Appeal Decision

Site visit made on 24 November 2021

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2021

Appeal Ref: APP/A2280/W/20/3265031

The Homestead, Sundridge Hill, Cuxton, Rochester ME2 1LF

- 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 S. Gill against the decision of The Medway Council.
 - The application Ref MC/19/3312, dated 22 December 2019, was refused by notice dated 12 June 2020.
 - The development proposed is described as 'change of use of land from Use Classes C3 (residential) to D1 (training) for construction industry accredited practical machinery training and siting of temporary buildings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) in July 2021. The main parties had the opportunity to comment on any implications for the appeal of this change, and I am satisfied that no prejudice would be caused by my consideration of the appeal in light of the revised Framework.
3. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the UCO Regulations), amending the Town and Country Planning (Use Classes) Order 1987 (the UCO), came into force on 1 September 2020. This replaces the former Class D1 with Schedule 2, Part B, Class F.1 (Learning and non-residential institutions). Paragraph 4 of the UCO Amendment Regulations requires that applications submitted before 1 September 2020 must be determined with reference to the UCO as it stood on 31 August 2020.
4. Revised drawings 1907_PL03/Rev C and 1907_PL05/Rev C and a revised acoustic assessment¹ were submitted during the course of the planning application. The Council has confirmed that it considered these documents in reaching its decision and so I have determined the appeal on the basis of the revised plans and acoustic assessment.
5. The appellant has submitted a revised Transportation Statement and Framework Travel Plan (the FTP) dated 8 December 2020 with the appeal. This was not before the Council at the time of its decision and has not been subject to public consultation. In comparison to the earlier FTP dated

¹ Carried out by Sound Advice Acoustics Ltd. Report reference: SA-6120-3 April 2020 Revision

21 November 2019, it indicates a significant reduction in the number of people on site at any given time from 35 to 14 people, which is a material change. Furthermore, the 8 December 2020 revision indicates that trainees would be collected and taken to the site by a 14-seater minibus. Given the typical size of such a vehicle, this could potentially have implications for the proposed parking and manoeuvring layout shown on drawing No 1907_PL03 Rev C.

6. I am very conscious of the Wheatcroft Principles derived from *Bernard Wheatcroft Ltd v SSE (1982)* which are further explained in the Procedural Guide: Planning Appeals – England. Annex M of the Procedural Guide explains that if an appeal is made, the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. It is my firm view, in the interests of fairness, that this appeal must be determined on the basis of the FTP dated 21 November 2019, which was before the Council and subject to consultation. To do otherwise could prejudice unacceptably the interests of interested people and/or consultees who would not have been consulted on the revised FTP and who may have observations to make.

Application for costs

7. An application for costs was made by Mr S. Gill against The Medway Council. This application is the subject of a separate Decision.

Main Issues

8. The main issues are:
 - The effect of the proposed development on the character and appearance of the countryside, including the landscape of the Cuxton Brickfield's Area of Local Landscape Importance; and,
 - The effect of the proposed development on highway safety.

Reasons

Character and appearance

9. The appeal site is located in the countryside outside the urban settlement boundary. Policy BNE25 of the Medway Local Plan 2003 (the Local Plan) states that development in such areas should only be permitted where, amongst other things, it maintains the countryside's character, amenity and function, and also offers a realistic chance of access by a range of transport modes. Furthermore, the appeal site is within the Cuxton Brickfields Area of Local Landscape Importance (ALLI). Policy BNE34 of the Local Plan sets out that development in ALLIs will only be permitted where it does not materially harm the landscape character and function of the area, or the economic and social benefits are so important that they outweigh the local priority to conserve the area's landscape.
10. Paragraph 3.4.104 of the Local Plan describes ALLIs as areas of landscape that enhance local amenity and environmental quality, providing an attractive setting to the urban area and surrounding villages. Paragraph 3.4.105 continues that ALLIs are significant not only for their landscape importance, but also as green lungs, buffers, wildlife corridors and green links for the

community to reach the wider countryside. The Cuxton Brickfields ALLI is described as a visually prominent area rising from marshes along River Medway up to the Kent Downs Area of Outstanding Natural Beauty (AONB), which maintains the separation between Strood and Cuxton, helping to retain individual identity. Furthermore, it is described as contributing towards the setting of Cuxton Village, forms a gateway to the urban area, and creates a visual link with the Kent Downs AONB. To my mind, the designation of the Cuxton Brickfields area as an ALLI is intended to recognise the value of the area's landscape to the locality. Having regard to paragraph 174 of the Framework, I consider the ALLI to be a 'valued landscape'.

11. The appeal site measures around 2.43 hectares, located to the south-east side of Sundridge Hill. It is served by an existing vehicular access off Sundridge Hill, which leads to a hard-surfaced parking area. The topography falls significantly to the south towards the River Medway, and part of the land adjacent to the southern boundary would be used to practice machinery skills, including digging trenches and filling them again. This area would be enclosed by stacked hay bales approximately 4.3 metres high. Four practice training machines would be used on site, and when not in use they will be stored under the existing pole barn. Furthermore, a portable building would be stationed under the existing pole barn to be used for training classrooms and examination, with associated kitchen canteen and W.C. facilities. A second portable building comprising a 'dry room' for lockers and safety wear would adjoin the northern elevation of an existing single storey outbuilding.
12. Visibility in the landscape of the proposed training/examination portable building would be restricted owing to its siting inside the existing pole barn and its level below the A228. Furthermore, views of the 'dry room' would be limited due to its small size and its position between an existing outbuilding and embankment. Nevertheless, the proposed digging activities would be carried out in an un-developed, open field that is visually prominent in views from the A228 towards the River Medway, and currently makes a positive contribution to the character and beauty of the countryside and the landscape importance of the Cuxton Brickfields ALLI. Whilst I note the relatively small size and number of the construction vehicles, their frequent operation and breaking of natural ground would appear incongruous in the countryside and create a visual blot in this valued landscape. The nature of the equipment and the activities carried out would not be characteristic of a countryside context.
13. I have had regard to the proposal for hay bales to be stacked around the mechanised digging area to a height of around 4.3 metres. This would edge a substantial area. The permanent stationing of such a large amount of hay bales would appear as a contrived feature in the landscape and should not be relied upon to conceal harmful development. Furthermore, I note the appellant's Preliminary Ecological Appraisal, which sets out that the land outside the digging area would be managed as per a Biodiversity Management Plan to be secured by a planning condition. The mitigation is indicated to include planting to encourage the establishment of a mosaic of chalk scrub and grassland, and to thicken the site boundary. Nevertheless, any additional boundary planting would take some time to become established and it would not overcome the above-mentioned adverse landscape impacts.
14. Regarding social and economic considerations, the appellant sets out that the proposal would provide practical vehicle training to Construction Plant

Competence Scheme (CPCS) accredited standards for construction, highways, retail, agricultural and media industry/locations workers. CPCS is an industry-recognised standard that provides accredited proof of the skills and abilities of plant operators. The scheme provides what is known as a 'ticket', which is transferable across construction sites in the UK.

15. The skills gained would provide a range of opportunities for mobility within the workforce. The proposal would boost the employment opportunities and incomes of local residents, and there would be a benefit to local businesses through the provision of a more skilled workforce. In particular, the training facility would be beneficial to small building companies that may not have the facilities to offer in-house training. The appellant identifies a clear need for the training facility, and I have had regard to the support provided by the Kent Construction Focus Group among others. I therefore attach significant weight to the social and economic benefits of the proposal.
16. The appellant's appeal statement sets out an alternative site search for the proposed use in allocated employment areas. Having regard to the land values that would be expected in allocated employment areas, the likely remediation/costs associated with ground contamination, the extent of made ground, and the small-scale nature of the proposed training facility, I accept the appellant's evidence that a site in an allocated employment area would be unlikely to represent a viable alternative. There is little before me to doubt the appellant's evidence, or to show that a site within the urban settlement boundary or an allocated employment area would offer a reasonable opportunity.
17. Nevertheless, whilst I have had regard to the social and economic benefits of the proposal and the appellant's assessment of alternative sites, I find that these considerations would not outweigh the significant harm to the landscape character of the Cuxton Brickfields ALLI.
18. For the above reasons, I conclude that the proposed development would cause significant harm to the character and appearance of the countryside, including the landscape of the Cuxton Brickfield's Area of Local Landscape Importance. The proposal would therefore be contrary to Policies BNE25 and BNE34 of the Local Plan, the aims of which are set out above.

Highway safety

19. The appellant's Transportation Statement and Framework Travel Plan² (the FTP) comments that trainees would be brought to the site from designated pick-up locations in the Medway towns and at local railway stations such as Cuxton. At the conclusion of a day's course, trainees would be dropped off. Furthermore, the FTP suggests that the appeal site is in a sustainable location close to bus stops and Cuxton railway station and therefore some staff members and trainees would travel to site by public transport. The car park would provide 8 on-site parking spaces for the facility, which would be used to collect trainees from the designated pick-up locations, and there would also be bicycle parking provision within the existing buildings. The Planning Statement³ states that the maximum number of clients using the facility per day would be

² Dated 21 November 2019

³ Planning Statement: TAM Training Ltd (Second Draft) December 2019

- 50, whereas the FTP says that there would be approximately 35 people on site at any given time on courses.
20. Whilst I note that there is a bus stop nearby to the east, I regard the appeal site to have only moderate accessibility. The A228 is a busy main road subject of a 40mph speed limit, which provides the main route from the appeal site to Cuxton and the railway station. There is no dedicated footway on the route to Cuxton, and the use of the grass verge for walking would be unsafe and uninviting. Furthermore, a long stretch of the road has limited street lighting. Taken together with the steep gradient of the road and the volume of traffic along the arterial route, including frequent HGV movements, this would reduce the attractiveness for cycling. I also note the presence of a secondary access to the south-west, which adjoins the A228. However, the route crosses a field which would not be appropriate for cycling. Furthermore, having regard to the lack of natural surveillance and lighting, it would not be an attractive route for walking. Having regard to these factors, I consider that a very low proportion of trainees would seek to travel to the site by walking or cycling.
21. I have had regard to the proposals in the FTP for trainees to be transported to and from the appeal site. However, there are few details relating to the proposed pick-up/drop-off locations, the routing of the collection/drop off vehicle(s), and timetabling. Furthermore, it is unclear whether all trainees would need to attend for the full duration of the training day or whether some would come and go as necessary. Consequently, it has not been demonstrated that this would offer a convenient and practical alternative mode of transport to the private car.
22. On the basis of the evidence before me, and the poor accessibility to the site for walking and cycling, I consider that a significant proportion of the trainees would seek to make journeys by private car, which would cause overspill parking in surrounding roads. I observed that street parking capacity in the vicinity is modest and so the additional cars would be likely to lead to unsafe parking across pavements and close to road junctions, causing unacceptable risk to pedestrians and other road users. In the absence of more detailed information, I cannot be certain that a condition to require the submission of a full Travel Plan would overcome my concerns.
23. For the above reasons, I conclude that the proposed development would have an unacceptable impact on highway safety. The proposal would therefore be contrary to Policies T1 and T13 of the Local Plan, which, amongst other things, seek to ensure that the development will not significantly add to the risk of road traffic accidents. The proposal would also conflict with paragraph 111 of the Framework which states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

24. I have considered whether a temporary planning permission would be appropriate, however given the extent of harm identified, I do not consider a temporary planning permission of any length of time to be justified. Furthermore, there is nothing to indicate that the planning circumstances will change in any particular way at the end of the temporary period.
25. I have had regard to the planning application and appeal decisions referred to by the appellant. These do not however alter my findings on the main issues

relating to this case. The circumstances in each case are different and I am required to determine the appeal based primarily upon its own merits. I have therefore proceeded on that basis.

Planning balance and Conclusion

26. As set out above, the proposal would provide social and economic benefits through the provision of training, which would boost the employment opportunities and incomes of local residents. Furthermore, there would be a benefit to local businesses through the provision of a more skilled workforce. I attach significant weight to these benefits. Moreover, the proposal could provide for modest enhancement to biodiversity at the site through the provision of a Biodiversity Management Plan.
27. However, I have found that the proposed development would cause significant harm to the character and appearance of the countryside, including the landscape of the Cuxton Brickfield's Area of Local Landscape Importance. Furthermore, it would have an unacceptable impact on highway safety. These are matters that attract significant weight and I conclude that the adverse impacts would outweigh the aforementioned benefits.
28. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal is dismissed.

C Osgathorp

INSPECTOR