
Appeal Decision

Hearing held 19-20 October 2022

Site visit made on 19 October 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/J0405/W/22/3303919

Land at Finmere Aerodrome, A421/A4421, Finmere, MK18 4AR, 464002, 232391

- 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 Euro Garages against the decision of Buckinghamshire Council.
 - The application Ref 20/03217/APP, dated 14 September 2020, was refused by notice dated 26 January 2022.
 - The development proposed is erection of roadside service facility, including a petrol filling station (Sui Generis) and drive-through coffee shop (Class E(b) / Sui Generis), with associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for erection of roadside service facility, including a petrol filling station (Sui Generis) and drive-through coffee shop (Class E(b) / Sui Generis), with associated infrastructure at land at Finmere Aerodrome, Finmere, A421/A4421, MK18 4AR, 464002, 232391 in accordance with the terms of the application, Ref 20/03217/APP, dated 14 September 2020, and subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made in writing by Euro Garages against Buckinghamshire Council. This application is the subject of a separate decision.

Procedural Matters

3. The development plan comprises the Vale of Aylesbury Local Plan adopted September 2021 and the Buckinghamshire Minerals and Waste Local Plan 2016-2036.
4. The Council withdrew its reasons for refusal relating to retail floorspace and the impact on watercourses prior to the Hearing.
5. The Council, in its statement of case, introduced a further issue regarding the safeguarding of mineral deposits. The appellants responded in writing, and the Council confirmed at the Hearing that it would not be pursuing this issue.
6. I do not therefore need to address these issues in this decision.
7. Considering concerns raised by the Civil Aviation Authority and local residents I raised the matter of aviation safety to a main issue, and this was discussed at

the Hearing. I am satisfied that interested parties have been able to comment on this matter. I have determined this appeal accordingly.

8. The appellants submitted additional information, including amended plans showing an access to the public right of way and revised landscaping details, shortly before the Hearing. These were discussed during the Hearing and I am satisfied that my accepting these amended plans does not prejudice any interested parties. The other additional information, including appeal decisions and addressing the matter of whether the appeal site is previously developed land, addressed the main issues and points raised by the Council in their statement of case. I have taken these submissions into account in my determination of this appeal.
9. Further comments were sought from the appellant and Council after the Hearing was adjourned on whether a legal agreement was required to secure the contributions sought by the highway authority for monitoring of the travel plan. The Hearing was thereafter closed in writing.

Main Issues

10. The main issues in the determination of this appeal are therefore:

- The effect of the proposed development on the character and appearance of the area,
- Whether it would support the move towards more sustainable modes of transport; and,
- The effect on aviation safety.

Reasons

Character and Appearance

11. The appeal site comprises one corner of a former RAF airfield set in the Buckinghamshire countryside. The appeal site is bounded to the south and east by mature trees, with established planting along the north boundary to the A421. Views into the appeal site are therefore limited, and principally from the west from vehicles travelling along the A421 and A4421.
12. The site contains no buildings but comprises an expanse of hardstanding and hardcore. It is close to the former runways, although separated from them by the mature trees along two sides of the site.
13. Policies S1, S2 and S3 of the Vale of Aylesbury Local Plan (the LP) collectively set out the strategy for sustainable development and growth. Taken together, these direct growth and investment primarily to established settlements and state that development in the countryside should be avoided, especially where it would compromise the character of the countryside between settlements.
14. Policies BE2, NE4 and NE5 of the LP further require that new development respect and complement the physical characteristics of the site and its surroundings, minimise impact on visual amenity, and minimise light pollution, amongst other considerations.
15. The proposed buildings and canopies would be visible from certain angles in the area, as noted above. They would be significantly larger in terms of footprint

than the existing buildings to the south of the appeal site, on the other side of the bank of trees. The canopies would be utilitarian features in the setting, with the canopy over the pumps being the nearest significant built structure to the site boundary. The buildings would be finished in materials which would soften their appearance in the setting, but would still be large, incongruous features. The petrol filling station and coffee shop would be internally illuminated with large windows, and some degree of external illumination would be necessary as well. By their footprint and angular and predominantly flat-roofed form the buildings would conflict with guidance in the Council's New Buildings in the Countryside Design Guide.

16. Notwithstanding that the site is not an open field, it is a flat site within the countryside. These features would appear incongruous and would cause a loss of openness in this location that would be uncharacteristic of the site and surrounding area. The existing and proposed landscaping would ensure that the visual impact would be localised but given the rural character of the area the appeal development would be prominent in those views where it would be visible.
17. Taking account of these considerations, the proposed roadside service facility would be harmful to the character and appearance of the area. It would therefore conflict with Policies S1, S2, S3, BE2, NE4 and NE5 of the LP, the relevant criteria of which are set out above, as well as guidance in the New Buildings in the Countryside Design Guide.

Sustainable transport

18. The proposal is for a roadside service facility, so requires a roadside location to cater to road users. The local road network is well used, and from the evidence before me there are no other petrol stations, with or without the option of providing refreshments, within about 4 miles of the site.
19. The LP does not contain any policies directly addressing the provision of roadside services. However, Policy T1 of the LP states, amongst other criteria, that the strategy to deliver sustainable transport in Aylesbury Vale is based on encouraging modal shift with greater use of more sustainable forms of transport and improving the safety of all road users.
20. The provision of roadside services would not support this aim of encouraging modal shift, as by its nature the use requires road users to operate. However, it would support the policy's aim of improving road safety by providing a place for drivers to break journeys. While there are alternatives available in the surrounding settlements, these are still some distance away, and the development would improve the range of choice available.
21. The appellants have provided evidence to show that most customers would be travelling on the local road network in any case. Some visitors may make a trip just to the site. However, given the relatively limited range of services proposed and its distance from neighbouring settlements I do not consider that the site would cause a significant rise in vehicle traffic.
22. The appeal site is not particularly accessible to non-road users. Although within walking distance of Finmere, this requires using the nearby public right of way that crosses three stiles between the village and the appeal site. This would limit accessibility for those with mobility issues. However, the principal purpose

of the use would be to serve road users, and this necessarily informs where such a use can be sited. While it can be reasonably expected that some future staff may live in Finmere, their method of travelling to the site would be at their discretion, and even if they have no mobility issues they may not wish to walk along the right of way in any case.

23. I therefore find that, while the appeal proposal would not encourage a modal shift towards more sustainable forms of transport, it would not result in a material increase in vehicle traffic nor discourage such a shift. The development would help to improve the safety of road users. There would therefore be no conflict with the aims of Policy T1 of the LP set out above.

Aviation safety

24. Finmere Aerodrome continues to operate private flights using part of the former RAF site. The active runway lies to the southeast of the appeal site, and I heard at the Hearing that planes mainly take off heading west, climbing to clear the bank of trees between the appeal site and runway. I was also informed at the Hearing that there are no recorded incidents of planes flying from the aerodrome needing to make a forced landing at the site or in the area in at least the last eight years.
25. The appeal site does not lie under the takeoff or landing path for planes using the aerodrome, nor under the flight circuit commonly used by those planes. Given these considerations, I am satisfied that the effect on aviation safety from the proposed development would be negligible.

Other Matters

26. Residents raised concerns regarding additional noise and pollution arising from the use of the proposed development. However, as noted above, the development would not result in a significant increase in traffic as it would principally cater to existing road users. The Council did not refuse planning permission on this matter, and I see no reason to find otherwise.
27. Residents further raised concerns regarding the impact on existing shops and services in the area. However, such impacts are not a planning concern.
28. The government has announced a ban on the sale of new petrol cars from 2030, and hybrids from 2035. There will nevertheless be a transitional period where petrol-fuelled vehicles remain in use, and therefore there will continue to be a need for petrol filling stations. I was advised during the Hearing that the appellants are preparing for the incoming ban, and how their sites can continue to operate afterwards.
29. Litter was also raised as a concern, but any landscaping scheme secured through appropriately worded conditions would include dustbins within the site.
30. Residents also raised concerns about the impact of the proposed development on wildlife and ecology in the vicinity of the appeal site, as well as matters of drainage. These matters can be managed by appropriately worded conditions.
31. The development does not include provision for solar power. However, this is not a requirement under local or national policy. It could, in any case, be added to the site later.

32. The main parties do not agree whether the site constitutes previously developed land, and therefore whether its redevelopment can be considered as a benefit in accordance with LP Policy S1. However, I do not find this matter to be determinative, so there is no need to address it further.

Planning Balance

33. The former airfield is a detracting element in the locality, but the Council's Landscape Character Assessment notes that the spatial concentration of the airfield, A421 and pylon lines leads to a variety of landscape character and quality across the area. The introduction of the roadside services facility to the site would cause harm to the character and appearance of the area by reason of its incongruous form and siting in a countryside location, even allowing for the proposed landscaping measures. Given the restricted visibility and existing condition of the site, this localised harm attracts moderate weight.
34. The proposed development would deliver public benefits. It would improve driver safety, providing an area to break journeys. It would create 10 full-time jobs, and 30 part-time jobs, as well as providing employment benefits in the wider supply chain. There would be short term economic and employment benefits arising from the construction of the facility. The development would provide remediation of the site, including any unexploded ordnance that may be discovered during construction. Landscaping would create new hedgerows, and an overall gain for biodiversity given that the site is presently bare hardstanding and hardcore.
35. The appellants contend that there would be a benefit from the provision of at least 4 electric vehicle charging points. I consider that that such a provision is to be expected at new petrol filling stations given the incoming restrictions on the sale of petrol-fuelled vehicles.
36. The benefits of the proposed development overall attract considerable weight in favour of the proposed development, so outweigh the localised harm that would arise to the character and appearance of the area. In this instance, therefore, there are material considerations that lead me to find otherwise than in accordance with the development plan in the determination of this appeal.

Conditions

37. I have considered the conditions suggested by the Council which have resulted from discussions with the appellants. I have also had regard to national Planning Practice Guidance.
38. I have imposed conditions relating to the commencement of development (1) and specifying the approved plans (2). These are for the sake of certainty.
39. To encourage the use of more sustainable modes of transport I have imposed a condition requiring that the appeal site be connected to the local public right of way network (3). I have also imposed a condition requiring approval of, and adherence to, a construction traffic management plan (4) to ensure that construction traffic does not disrupt the local road network.
40. I have imposed conditions relating to the identification and remediation of any contamination of the appeal site (5, 6 and 7) to ensure that any contamination is satisfactorily addressed. I have also imposed a condition requiring the

management of surface water drainage (8) to safeguard against the risks of flooding and surface runoff.

41. Conditions 9 and 10 require landscaping measures be implemented to mitigate the visual impact of the development and to safeguard existing trees.
42. A condition relating to access to the roundabout at the junction of the A421 and A4421 (11) is necessary to ensure that vehicles entering and exiting the site can do so safely. As I have not been provided with a copy of the highway authority's guidance note on such junctions, I have omitted the reference to this document.
43. Conditions relating to vehicle parking, delivery bays and manoeuvring (12) and to cycle parking (13) are necessary to ensure that the site is laid out in a usable fashion.
44. A condition requiring the submission, approval and monitoring of a travel plan for the site (14) is necessary to promote sustainable travel. A unilateral agreement has been provided by the appellants to fund the monitoring. This is necessary to make the development acceptable in planning terms, as the development would not otherwise encourage a modal shift towards more sustainable forms of transport. It is directly related to the development, as it will relate to travel to and from the site. It is fairly and reasonably related in scale and kind to the development, as the roadside service facility is a new development on an otherwise little-used site and would be the reason for the great majority of traffic entering or leaving the site.
45. The appellants have agreed to provide at least 4 electric vehicle charging points at the site. As only 2 points are shown on the plans, a separate condition (15) is required for the approval of details of the 4 points and to secure their implementation.
46. Given the sensitive location of the appeal site, conditions restricting the installation of plant and machinery at rooftop level (16) and the extent of external lighting (17) are reasonable and necessary. In addition, a condition requiring approval of the details of external materials (18) is also necessary to ensure that the finished appearance of the development would be acceptable.
47. Conditions requiring the replacement of new or existing planting at the site (19 and 20) are reasonable and necessary to ensure that the site will be screened in its surroundings and to lessen the visual impact of the development.
48. A condition requiring that the development be carried out in accordance with the submitted site levels (21) is reasonable and necessary to limit the visual impact of the development.
49. Condition 22 requires approval of hard landscaping details. It is necessary to ensure that the finished appearance of the development is acceptable, and that it would be functionally fit for purpose.
50. Given the site's history as part of a former RAF wartime airfield, a condition is required to ensure that appropriate measures are taken to address the potential presence of unexploded ordnance at the site (23).
51. I have not imposed a condition relating to advertisements at the site. The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

allows for commercial premises to display advertisements within the premises and on forecourts without formal applications for consent. Such advertisements would not be so prominent or visible in this instance that they would be harmful to the wider area.

52. At the Hearing it was agreed that a condition relating to visibility splays at the access onto the roundabout was not necessary as this access already exists.

Conclusion

53. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR

APPEARANCES

For the appellants

Chatnam Soongh	Counsel
Matthew Wyatt	PWA Planning
Gavin Snowball	Dynamic Transport Planning
Peter Forbes	Alan Stratford and Associated
Mike Carr	Pegasus Group
Radek Chanas	Pegasus Group
Nathan Tonge	Euro Garages

For the Council

Richard White	Principal Planning Officer
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Interested parties

Colin Wilkinson	Resident
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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:
220112-000-Site Location Plan issued October 2022
170677-PLNG12 - H -Proposed Site Layout 1:200 Scale
170677-PLNG13 - H - Proposed Site Layout 1:500 Scale
170677-PLNG14 - Proposed Site Elevations
170677-PLNG15 - A - Proposed Building Elevations - Coffee Shop
170677-PLNG16 - Proposed Building Elevations - PFS
170677 - PLNG17 - H - Tracking Layout
170677-PLNG18 - Ancillary Details
DTP/3705018/SK001 - B Swept Path Analysis
4060-01-C - Landscape Layout
- 3) No development shall commence prior to the provision of a public pedestrian route connecting to the public right of way to the northeast of the site in accordance with details that have first been agreed in writing by the local planning authority. Thereafter the development shall not be brought into use until the internal connections to the footpath link have been provided. The public pedestrian route connecting to the public right of way shall thereafter be retained as such in perpetuity.
- 4) Prior to the commencement of any development works on the site (including site clearance); a Construction Traffic Management Plan (CTMP) shall be submitted to and approved by the local planning authority. The CTMP shall provide for the following:
 - The routing of construction vehicles
 - Construction access details, temporary or otherwise
 - The parking of vehicles of site operatives and visitors
 - Loading and unloading of plant and materials storage of plant and materials used in constructing the development
 - Operating and delivery hours
 - The erection and maintenance of security hoardings
 - Wheel washing facilities
 - Before and after construction condition surveys of the highway and a commitment to fund the repair of any damage causedThe approved CTMP shall be adhered to throughout the construction period.
- 5) No development shall take place until a contaminated land assessment and associated remedial strategy, together with a timetable of works, has been submitted to and approved in writing by the local planning authority.
 - a) The contaminated land assessment shall include an intrusive site investigation as recommended within the Phase One Environmental Assessment (Desk Study) Report, reference 19/0854, written by Geo² Remediation Limited. This must include relevant soil, soil gas, surface and groundwater sampling and shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - b) A site investigation report detailing all investigative works and sampling

on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the local planning authority. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters. The local planning authority shall approve in writing such remedial works as required prior to any remediation works commencing on site.

Thereafter the development shall only be carried out in accordance with the agreed remediation works, which shall be fully completed prior to the commencement of any construction work.

- 6) Prior to the first occupation or use of any part of the development, the agreed approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance.

If during the works contamination is encountered which has not previously been identified then this additional contamination shall be fully assessed in accordance with a 'contaminated land assessment and associated remedial strategy' site investigation report and an appropriate remediation scheme, which shall first be submitted to and agreed in writing by the local planning authority. Thereafter the development shall only be carried out in accordance with the agreed remediation measures.

- 7) Prior to the first occupation or use of any part of the development, a validation report shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the completed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to demonstrate that the site has reached the required clean-up criteria shall be included in the validation report together with documentation detailing the type and quantity of waste materials that have been removed from the site.

- 8) No works (other than demolition) shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components
- Existing and proposed discharge rates and volumes
- Drainage layout detailing the connectivity between the buildings and the drainage components, showing pipe numbers, gradients and sizes, complete together with storage volumes of all SuDS components
- Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site.
- Construction details of all SuDS and drainage components
- Details of how and when the full drainage system will be maintained, this should also include details of who will be responsible for the maintenance

- Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration of flow direction
- 9) The development shall be carried out in accordance with the soft landscaping scheme shown on drawing 01 Rev C and associated planting details set out within the Biodiversity Impact Assessment (prepared by Rachel Hacking Ecology) dated May 2022. The soft landscaping scheme shall be carried out in full within the first planting season following the first use of any of the buildings hereby permitted or the completion of the development whichever is the sooner.
- 10) The development shall not be commenced until or unless the trees shown for retention on drawing number 06 Rev B 'Development Layout Plan' within the Arboricultural Report by DEP Landscape (Revised April 2021) have been protected by the erection of a barrier complying with Figure 2 of BRITISH STANDARD 5837:2012 (as shown on drawing number 10 'Tree Protective Fencing' within the Arboricultural Report) positioned at the edge, or outside the Root Protection Areas shown on the 'Tree Protection Plan' drawing number 07 Rev. B within the Arboricultural Report. The protection measures referred to above shall be maintained during the whole period of site excavation and construction. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, in particular:
- There shall be no changes in ground levels;
 - No materials or plant shall be stored;
 - No buildings or temporary buildings shall be erected or stationed unless these are elements of the agreed tree protection plan.
 - No materials or waste shall be burnt; and.
 - No drain runs or other trenches shall be dug or otherwise created, without the prior written consent of the local planning authority.
- 11) No part of the development shall be used or occupied, until the development access off the A421/A4421 Roundabout has been laid out as shown on the approved planning drawings, and constructed in accordance with details to be submitted to, and approved by, the local planning authority.
- 12) The scheme for parking, delivery bays and manoeuvring indicated on the submitted plans shall be laid out prior to first use of any of the buildings hereby permitted and that area shall thereafter be retained and shall not thereafter be used for any other purpose.
- 13) Notwithstanding the cycle parking details shown on the drawings hereby approved, prior to the first use or occupation of any of the buildings hereby permitted, details of covered and secure cycle parking for staff shall be submitted to and approved by the local planning authority, and the cycle parking shall not thereafter be used for any other purpose.
- 14) Prior to the first use or occupation of any part of the development hereby permitted, a detailed Travel Plan shall be submitted to and approved by the local planning authority, and the approved Travel Plan shall be implemented, and maintained and monitored thereafter.
- 15) Prior to the commencement of any development above slab level, the following details shall be submitted to and approved in writing by the local planning authority for a minimum of 4 rapid electric vehicle charging points:
- Details of the substations and any associated enclosures

- Details of the canopies to the electric vehicle charging points and any associated enclosures
- Details of refuse storage and any associated enclosures

The development shall be carried out in accordance with the approved details, and the charging points retained thereafter.

- 16) No roof mounted plant or machinery shall be installed without express planning permission first being granted.
- 17) No external lighting shall be installed other than in accordance with details which have first been submitted to and approved by the local planning authority.
- 18) Prior to the commencement of development above slab level, details of external materials to be used in the construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 19) Any tree or shrub which forms part of the approved soft landscaping scheme pursuant to condition 9 which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.
- 20) Any of the trees or hedges to be retained in accordance with the details stated within Condition 10 which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced in the next planting season with others of similar size and species, unless the local planning authority first gives written consent to any variation.
- 21) The development hereby permitted shall be carried out in accordance with the levels shown on approved drawing 170677-PLNG12 - H - Proposed Site Layout 1:200 Scale and shall thereafter be retained as such.
- 22) Notwithstanding the details shown on the approved drawings, prior to development above slab level details of hard landscaping shall be submitted to and approved in writing by the local planning authority. The hard landscaping details shall include means of enclosure, hard surfacing materials, and details of refuse disposal. The development shall thereafter be carried out in accordance with the approved details.
- 23) The development hereby permitted shall be constructed strictly in accordance with the recommendations at Paragraph 4.1 of the Non-intrusive Unexploded Ordnance Survey undertaken by MACC International Ltd, dated 11th December 2019.

End of schedule