



Appeal Decisions

Site visit made on 11 October 2022

by Diane Lewis BA(Hons) MCD MA LL M MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2023

Appeal A Ref: APP/V3500/C/21/3272484

Appeal B Ref: APP/V3500/C/21/3272485

Land at Laurel Farm, The Street, St James South Elmham, Suffolk, IP19 OHL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. Appeal A is made by Mr D M Pipe and Appeal B is made by Mr P S Pipe against an enforcement notice issued by Suffolk County Council.
- The notice was issued on 8 March 2021.
- The breach of planning control as alleged in the notice is: Without planning permission, the unauthorised change of use from the permitted established mixed use of residential/industrial (B2)/agriculture to a mixed residential/industrial (B2)/sui generis use as a waste transfer station, including the importation, storage, sorting and processing waste, comprising of commercial and domestic, building, demolition, metal and wire waste and associated hardstanding.
- The requirements of the notice are to: Stop using the land for the importation, storage, sorting and processing of waste and remove from the site all waste, including any processed materials and the material spread on the land to form hard standing.
- The periods for compliance with the requirements are: two days to stop the use of the land for the importation, storage, sorting and processing waste and three months to remove from the land all waste, including materials spread on the land.
- Appeal A is proceeding on the grounds set out in section 174(2)(c), (d), (f), (g) of the Town and Country Planning Act 1990 as amended. Since an appeal also has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
- Appeal B is proceeding on the grounds set out in section 174(2)(c), (d), (f), (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act have lapsed.

Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld as corrected and varied.

Preliminary Matters

1. On 8 March 2021 Suffolk County Council (SCC) issued two enforcement notices, one in respect of Land at Laurel Farm and a second in relation to Land at The Cottage, The Street, St James South Elmham. The appellants own both sites. The two appeals regarding The Cottage are the subject of separate Decisions¹.
2. The matters alleged to constitute a breach of planning control fall within the description at 10(b) of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The alleged matters

¹ Appeal refs APP/V3500/C/21/3272482 and APP/V3500/C/21/3272483

have been screened of the Secretary of State's own volition under Regulation 5(6)(a) of the above Regulations. By a notice dated 17 November 2022 the Secretary of State directed that the alleged development would not be Environmental Impact Assessment (EIA) development.

Enforcement Notice and the Land

3. The Land shown on the plan attached to the enforcement notice is comprised of two areas. The larger irregular shaped area extending over approximately 18.3 hectares (ha) is located to the north of The Street. A smaller parcel of 0.39 ha lies to the south of The Street, which at the time of the appeal site visit was grazing land. The Land was confirmed to be the planning unit by SCC because it is occupied in its entirety by the appellant. Even though the smaller area is physically distinct from the main part of the land it was said not to amount in substance to a separate use. The appellants considered the planning unit was a matter for SCC and did not dispute the extent of the Land to which the notice relates. In view of these representations I do not intend to make any corrections to the Land or the plan attached to the notice.
4. The planning history refers to an enforcement notice issued on 4 March 1997 alleging an unauthorised change of use of land by the parking, repair and maintenance of heavy goods vehicles. The notice was withdrawn in June 1997. Shortly after in July 1997 a planning application was submitted for a change of use to maintenance depot for lorries (ref W16796/1). Planning permission was granted in January 2001. SCC has not been able to provide a copy of the permission and approved plans. The site shown on the plotting sheet appears to cover a similar area to the land in the 1997 enforcement notice and included the group of farm buildings and adjacent land. The Land identified in the current notice is much larger in extent.
5. Permission was granted for the construction of an agricultural storage building on 11 February 2003 (ref W16796/6). Planning conditions required the building to be open sided and used solely for the storage of hay and straw, and precluded the parking or standing of tractors, lorries or other vehicles on land between the farm roadway and front boundary.
6. The alleged breach of planning control states that the former use was a mixed use of residential/industrial (B2)/agriculture. During the appeal process SCC clarified that the industrial (B2) element was equivalent to the maintenance depot for lorries. I consider that this more specific description should be used. A mixed use is a use in its own right, a sui generis use, and is not in any Use Class.
7. With these matters in mind the description of the breach will be corrected to state "Without planning permission, the unauthorised material change of use of the Land from a mixed use comprising residential, agriculture and a maintenance depot for lorries to a mixed use comprising residential, agriculture, a maintenance depot for lorries and a waste transfer facility for the importation, sorting, processing and storage of waste together with the formation of hardstanding as part and parcel of the material change of use."
8. In light of the comments from SCC and the appellant I am satisfied that this correction to the notice can be made without injustice to them. I will address any consequent amendments to the requirements of the notice when considering the appeals on ground (f).

Reasons: Grounds of appeal

Appeals on ground (c)

9. The issue is whether on the balance of probability the material change of use and the associated hardstanding amount to a breach of planning control.
10. The initial grounds of appeal were amended in the statement of case. The first matter raised regards the removal of waste and is more appropriately considered in the ground (f) appeals. The second matter is directed solely at the hardstanding. The appellants claim the deposit of waste to form a hardstanding is permitted development.
11. The Town and Country Planning (General Permitted Development) (England) Order 2015 (the GDPO) in Class A of Part 6 in Schedule 2, on which the appellants rely, permits certain types of agricultural development on units of 5ha or more. Development that is permitted includes any excavation or engineering operations which are reasonably necessary for the purposes of agriculture within the unit.
12. The onus is on the appellants to demonstrate the hardstanding falls within this description. No evidence has been produced that does so. More particularly, the area of hardstanding has not been identified and no explanation given as to why it was reasonably necessary for the purposes of agriculture within the unit. Furthermore, the description in the alleged breach concerns the change from one mixed use to another. The permitted development rights in Part 6 do not apply to land in mixed use. The planning history indicates the former mixed use was in existence since around 2001 when the maintenance depot for lorries, one of the primary uses, was granted planning permission.
13. I also refer the appellants to the proposed corrections to the description of the alleged unauthorised use which clarify the notice is directed at the hardstanding that is part and parcel of the material change of use. Photographic evidence in particular shows the area of hardstanding related to the waste operations has increased in extent.
14. The appellants have made no substantive case in respect of the alleged material change of use. Moreover, the evidence provided by SCC gathered through site investigations demonstrates that the character of the land use at Laurel Farm has substantially changed as a result of the deposit, sorting and storage of considerable quantities of waste materials. The representations of residents describe a marked change in the activities at Laurel Farm. The appeal site visit also confirmed that a waste transfer facility was being operated.
15. As a matter of fact and degree a material change to a new mixed use did occur and additional hardstanding integral to the new use was formed. This development would require planning permission and none has been granted, whether as a result of an application made to the local planning authority or by a development order. I conclude that the development amounts to a breach of planning control. The appeals on ground (c) fail.

Appeals on ground (d)

16. To be successful in their ground (d) appeals the appellants would have to show on the balance of probabilities that the unauthorised mixed use has become immune from enforcement action by the passage of time. The time limit for

taking enforcement action against the material change of use of the land is a period of ten years beginning with the date of the breach. It follows that the issue is whether the material change of use occurred before 8 March 2011 and the use continued substantially uninterrupted for a period of ten years thereafter.

17. The very brief facts presented in the appellants' grounds of appeal associated the waste on the site to their building contractor's business and haulage business, which were stated to have operated for over 20 years. However, such points are more appropriate to a ground (b) appeal, that there is no waste transfer facility on the land, or a ground (c) appeal, that the waste transfer facility does not amount to a primary use and there has not been a breach of planning control.
18. Subsequently the appellants' statement of case acknowledged that the grounds have been somewhat superseded by their review of the ground (a) appeal. The proposed supporting documentation, initially referred to in their grounds of appeal, was not submitted. That being so the appellants have not provided any substantive evidence to support their case.
19. In contrast SCC has provided considerable evidence. To summarise, no waste activities were apparent on the land prior to 2017. Some extension of hard surfacing and activity appear to have occurred around 2017 into 2018 but it is not possible to clearly identify a waste related use. In March 2019 one of the appellants registered for a Carrier Broker Dealer Permit and the site was registered for an Environment Waste Exemption Certificate on 21 September 2020. Complaints about waste storage, processing and disposal (linked to similar complaints at The Cottage) were pursued in 2020. SCC detailed the findings of a site visit on 22 September 2020 when a large quantity of commercial and domestic waste was present in the area past the northern barn. Skips and lorry bodies were filled with different types of waste materials and sorting of waste was seen. The ground was covered by a thick layer of hardcore. Waste storage was taking place in an adjacent field.
20. In conclusion, the increase and expansion of waste operations on site indicate the establishment of the waste transfer facility and the material change of use of the land probably occurred around 2020, several years after the relevant date of 8 March 2011. The mixed use of land comprising residential, agriculture, a maintenance depot for lorries and a waste transfer facility has not become immune from enforcement action. The appeals on ground (d) fail.

Appeal on ground (a), deemed planning application

The Development

21. The description of the development for which planning permission is sought is derived directly from the description of the alleged breach of planning control (as corrected)². The site of the deemed planning application is all of the Land. Thus the development at issue is a material change of use of the Land to a mixed use comprising residential, agriculture, a maintenance depot for lorries and a waste transfer facility for the importation, processing, sorting and storage of waste together with the formation of hardstanding as part and parcel of the material change of use.

² Section 174(2)(a) of the 1990 Act

22. The appellant has described the development for which permission is sought as "Change of use of land at Laurel Farm for the operation of a waste transfer station, including sorting of household, commercial and industrial wastes and retention of hardstanding areas". The identified site, said to be approximately 0.32 ha, is mainly to the north of the existing building group but including one of the workshops.
23. There is provision in section 177(1)(a) to grant planning permission in respect of the matters stated in the breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land. The unauthorised use is a mixed use and in my view a development comprising only a single primary use as a waste transfer station is a different use and not part of the development. That being so the waste transfer station alone cannot be considered under the ground (a) appeal. The existing uses will be considered alongside the waste transfer facility as a mixed use as described in the allegation on the whole of the Land.
24. To support this ground of appeal the appellant submitted a Design and Access Statement (the DAS), including a proposed site layout plan. It is clear that aspects of the waste transfer facility described in the DAS are proposals rather than necessarily reflecting the operation on the ground. I am of the view that the scheme is able to be considered as an "obvious alternative" within the scope of the deemed application for the mixed use.
25. By way of background the appellants explained that they have historically brought waste back from their own contracting work prior to sending it to other sites for recovery or disposal. Having reviewed their operations at The Cottage and Laurel Farm the proposal is to provide a compact waste transfer area on a single site at Laurel Farm.
26. Much of the area covered by the DAS site layout plan is shown to have a compacted stone/hardcore surface. The plan also shows an empty skip storage area and a concrete yard for a waste tipping and sorting area and 8 skips for sorted waste. The existing workshop is to accommodate maintenance of the vehicles involved in the waste operation, an office and stores.
27. Primary operations of the proposal are stated to comprise the acceptance, storage and sorting mixed dry non-hazardous household, industrial and commercial and construction, demolition and excavation wastes; the storage and transfer of wastes. The site would be operated as a separation facility for the skip waste inputs, where recyclables would be separated by hand and by grab machine, stored and sent on to other reprocessing facilities. Much of the remaining material following separation would be hardcore and soils, which could be reused in building projects as a secondary aggregate. The site is expected to accept up to 5,000 tonnes of waste per annum, an average of 100 tonnes per week. External stockpiles are proposed to be limited to a maximum height of 4 metres (m).
28. Reference is made to use of the proposed recycling bays for the acceptance, storage and treatment of waste. SCC has observed that if the treatment of waste took place the operation would not be a waste transfer station. Therefore the treatment of waste should be discounted.

Planning Policy and Main Issue

29. The development plan includes the Waveney Local Plan adopted in 2019 (the WLP) and the Suffolk Minerals and Waste Local Plan adopted in 2020 (the SMWLP).
30. The National Planning Policy Framework (the Framework) and the National Planning Policy for Waste (the NPPW) also are very relevant considerations. Appendix B of the NPPW sets out the criteria for considering the likely impact on the local environment and on amenity when determining planning applications. The NPPW also confirms that in decision-making the concern is to implement the planning strategy in the Local Plan and not with the control of processes which are a matter for the pollution control authorities. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.
31. Based on the policy framework and the reasons for issuing the notice the main issue is whether the development is in an acceptable location, having particular regard to:
- the adopted spatial strategy and the local highway network;
 - the effects on the local environment including the character and appearance of Laurel Farm and the surrounding area, the historic and natural environments, residential amenity and the amenity of the village; and
 - the contribution of the development to the local economy and waste management.
32. In assessing these matters I will take into account the use of planning conditions to enhance the quality of development and mitigate any adverse effects. The Framework states that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning Practice Guidance advises conditions requiring compliance with other regulatory regimes will not meet the test of necessity and may not be relevant to planning.

The Land

33. The Laurel Farm Meadow St James South Elmham Site of Special Scientific Interest (the SSSI) forms part of the Land. The SSSI extends northwards from the boundary with The Street and adjoins the site of the waste transfer facility, lying to the west.
34. Laurel Farmhouse is a Grade II listed building and is towards the front of the Land, west of the site access and main building group.
35. The Church of St James is a Grade I listed building and is located to the east of Church Lane, directly to the south of the smaller area of the Land. A Scheduled Monument, the Moated site, lies 150m to the south of St James' Church.
36. The expectation in the Framework is that an applicant should describe the significance of any heritage assets affected, including any contribution made by their setting. The appellant has not done so.

37. There is little detailed information on the actual use of the Land before the unauthorised development took place in terms of types and scale of various activities. In response to a Planning Contravention Notice the appellant referred to a transport company, maintenance of their plant and equipment, storage of materials to enable recycling of waste and continuation of farming activities. In the series of aerial photographs provided by SCC it is possible in 1999 to distinguish the farmhouse and residential land, the complex of farm buildings and yards and the adjacent enclosed small fields. There was some extension of vehicle parking and possibly small structures along the farm track over the period from 2005/2007 through to about 2016/2017, but the extension of hard surfaces, storage and spillage of activity onto adjacent fields becomes more evident around 2019 and especially so in 2021.

Spatial Strategy

38. The development is a mixed use where the new primary use component is a waste transfer facility. In order to achieve a sustainable pattern of development Policy WLP1.2 restricts types of employment development outside the settlement boundaries. Laurel Farm is in the designated countryside where this control applies. In terms of the spatial strategy set out in Policy GP3 of the SMWLP Laurel Farm is not well related to the Suffolk Lorry Route Network or one of the major centres of population of Ipswich, Bury St Edmunds or Lowestoft³. Hence it is not in a preferred location for waste development.
39. Policy WP3 more specifically identifies categories of land uses and locations where waste development may be acceptable. These include land in existing general industrial or storage and distribution use, and within or adjacent to agricultural or forestry buildings. On that basis Laurel Farm may have some merit. However, to be acceptable proposals must comply with the environmental criteria set out in Policy GP4. In addition, Policy WP8 (proposals for recycling or transfer of inert and construction, demolition and excavation waste) requires activities to take place within purpose designed facilities. Similarly, Policy WP9 (waste transfer stations and other recycling and recovery facilities) refers to activities taking place within purpose designed or suitably adapted facilities.

Highway network

40. The Framework states that transport issues should be considered from the earliest stages of development proposals. The appellant has not submitted a transport statement or assessment but simply equates the estimated acceptance of an average of 100 tonnes per week to 20 skips/loads per day. It is envisaged that vehicles will be primarily skip loader vehicles, grab hire vehicles and smaller commercial vans.
41. In view of the distance of Laurel Farm from the Suffolk Lorry Route Network, vehicles would have to access the site using a network of largely single width unclassified country lanes, passing through villages such as All Saints South Elmham and Rumburgh. The network of rural lanes makes a positive contribution to landscape character of the surrounding area. SCC as highway authority advised streets around the site, notably The Street and Mill Lane are 3.0m to 3.5m wide in places and are unsuitable for regular use by larger

³ The information provided by SCC indicates the site is about 25 km from Lowestoft and about 6.5 km south west of the Suffolk Lorry Route Network

vehicles. There is insufficient width to enable two cars to pass and both roads have numerous bends, evidenced by considerable verge erosion from large vehicles. Moreover, Mill Lane is less than 3m wide near to the junction with The Street. The highway authority concluded the development proposals are likely to result in a severe impact on the highway network.

42. The comments from SCC are consistent with my observations on the site visit. In addition, the number of vehicle movements generated by the new use has probably been underestimated by the appellant when account is taken of two way trips and the movements related to the removal of sorted waste from the site.
43. I conclude the probable increase in the number of vehicles going to and from Laurel Farm results in an increased risk of vehicle conflict by reason of the narrow road widths and restricted visibility. For similar reasons pedestrian safety would be put at risk in the village. I am not satisfied that safe and suitable access to the site can be achieved for all users. It has not been shown that the effect on highway safety is able to be cost effectively mitigated to an acceptable degree. Requirements in the Framework to promote sustainable transport are not met. Therefore the highway infrastructure is not of a suitable standard to support a waste transfer facility as part of a mixed use at Laurel Farm.

Landscape Character

44. Laurel Farm is not located within one of the nationally designated landscape areas in Suffolk but the village and surrounding landscape have qualities and a distinctiveness that development plan Policies WLP8.35 and GP4 seek to protect and enhance. The Framework also requires planning decisions to contribute to and enhance the natural and local environment, recognising the intrinsic character and beauty of the countryside.
45. The topography of the surrounding countryside is very gently undulating and the predominant landcover is that of arable agriculture, with occasional areas of pasture and rough grazing. Field boundaries are defined by native hedgerows and woodland cover is low. The field pattern is of a more intimate small scale around the settlement edges with a larger field network beyond. Settlement is dispersed, mainly centred on small villages and hamlets. St James South Elmham has a linear form along The Street, a mix of residential properties and farmsteads and where St James' Church is a prominent building. The narrow rural lanes contribute to the sense of remoteness in this settled and quiet rural landscape.
46. Prior to the material change of use Laurel Farm positively contributed to the village character. The farmhouse is of traditional building materials, timber framed and rendered and the lowland meadow (the SSSI) is an important grassland habitat in the predominantly arable landscape. Public footpaths from The Street and Mill Lane cross the land at Laurel Farm and link with the wider public rights of way network.
47. The appellant considered that the proposal would be a low-key operation that would be sympathetic to landscape character but the DAS does not explain in any detail how the development would protect local distinctiveness, landscape character and be sensitive to its surroundings. The statement that there are 'no

mature trees on the development site or any in the vicinity which may be affected by the proposed development' is inaccurate.

48. The photographs taken by SCC in 2020 and 2021 indicate that the waste operation taking place was not contained within purpose designed and suitably adapted facilities, with piles of waste materials along the boundary hedge with the SSSI, in the open yard or in various skips, containers or other receptacles. Similar conditions were apparent on the appeal site visit, when I also noted the presence of various types of vehicles, plant and equipment. Trailers and other aspects of the operation were spilling out from the main yard area onto the adjoining farmland. The labelling of sorted materials introduced some order in the working area. The representations from the Member of Parliament for the Waveney constituency, the Parish Council and local residents contain similar descriptions, with reference to the storage of materials and plant over a wide area.
49. The former mixed use was made up of characteristic land uses of residential and agriculture. From the available evidence the maintenance depot for lorries probably was connected mainly with the appellant's construction/ groundworks business and work associated with maintenance of the agricultural land belonging to Laurel Farm. To a large extent the operation was contained within and around the workshop buildings, with parking extending a little way along the track.
50. The addition of a waste transfer facility to the mix of uses has extended the operational area further north and west and introduced a largely open activity involving the deposit, sorting and storage of a range of waste materials and the use of a range of vehicles, plant and equipment. The atypical land use and the level and type of activity have seriously affected the small scale land use pattern on the settlement edge. The operation is insensitive to the historic field pattern and has caused harm to the boundary hedgerow to the SSSI. The use is very unsightly and is highly visible from the public footpaths. The serious harm to the appearance of the site and to the visual amenity of the locality has substantial weight.
51. If the scheme shown on the appellant's proposed layout plan could be secured through a planning condition, the level of identified harm would be reduced slightly by reason of the proposed degree of containment and order of functions. However, there is a lack of clarity over the height of any stockpiles, SCC suggesting a limit of 2m whereas the appellant is seeking 4m. SCC also has demonstrated that the proposed 3m buffer along the eastern boundary of the yard would be inadequate to safeguard the existing trees and hedgerow, taking into account the existing width of the hedge and the canopy of the trees. The basic elements of the waste transfer facility and the associated operations would continue, resulting in considerable harm to the local landscape character and to the appearance of the site.

Designated heritage assets

52. Laurel Farmhouse, a Grade II listed building dating to the late 16th/early 17th century, is located within the site and remains in residential use. The dwelling and the land around it form the residential element of the mixed use. In my judgement the waste transfer facility is within the surroundings in which the designated heritage asset is experienced and hence the development affects its setting. The setting has a visual and functional relationship with the building.

53. The listing description indicates the significance of the Farmhouse is derived from its form of construction and architectural features and its contribution to the local historic vernacular settlement character and farming landscape. The land use change would introduce a more intrusive operation and activity into its peaceful predominantly agricultural setting, by reason of the noise, visual harm and nature of activity. Less than substantial harm results to the significance of the designated heritage asset, to which I attach considerable importance and weight.
54. The Parish Church of St James is one of the distinctive flint churches in the area and elements of the building fabric date as far back as the 12th and 13th centuries. The building stands within a churchyard which is afforded good enclosure by mature trees. Lying immediately south of the Land I consider the development is within its setting. Historically the Church would have served the agricultural community and had a strong relationship to the dwellings and the surrounding agricultural landscape.
55. The waste transfer facility as currently developed is not appreciated visually from the Church, although my expectation is that the noise from the operation or from vehicles would be intrusive given the quietness of the village. The use is incompatible within the setting to the Church. Less than substantial harm results to the significance of the designated heritage asset, to which I attach considerable importance and weight.
56. The Scheduled Monument is one of several prominent features of the medieval landscape which survive or whose location is known within the parish. The moated site is of particular interest for the study of medieval settlement patterns and land holding within the area⁴. There is good separation distance between the moated site and the development and no evidence to indicate its archaeological interest or significance would be affected.

Laurel Farm Meadow SSSI

57. This designated area is a small, species rich grassland. The Natural England designation assessment in 2009 stated that the overall condition was favourable. The 3m buffer referred to earlier is the only measure proposed to avoid damage to the distinct features of the SSSI, although the appellant anticipated a habitat review when applying for an environmental permit. There is no explanation to justify the width of 3m for the buffer.
58. I am not satisfied that this buffer would be adequate or that proper consideration has been given to other potential effects, such as from drainage and dust. SCC has advised that an assessment of the potential impact on air quality within this SSSI must be completed following the appropriate guidance.
59. I am not able to rule out that adverse effects would occur and on this basis alone the Framework indicates that the development should not be permitted.

Amenity

60. St James South Elmham is aptly described by SCC as a small quiet village situated in a relatively remote countryside location. On my site visit the on-site operations were stopped for safety reasons. The factor that struck me most was how quiet it was and how noise sensitive the environment is. The delivery

⁴ Information from the Reasons for Designation

of waste materials onto the site, the sorting and transfer into vehicles for onward movement would involve vehicle movements and the use of plant and equipment. Such operations are inherently noisy.

61. The nearby homes and the Church are noise sensitive receptors. The noise from the operations would be very intrusive. They have adversely affected the quality of life within the village, as indicated by the representations from residents in response to the appeals. SCC is aware that complaints were made to the District Council. Representations also refer to the burning of waste and smoke.
62. The appellant relies on the preparation of an Environmental Management System (EMS) for an environmental permit application, which would be submitted for approval by the Environment Agency in the event planning permission is granted. The appellant states that the EMS would contain detailed procedures for the inspection of the site and monitoring of dust, noise and odour and a complaints procedure. The appellant has proposed that the site will be open for the acceptance and removal of waste between 0700 to 1800 hours Monday to Friday and 0800 to 1300 hours on Saturday.
63. SCC has suggested imposing planning conditions requiring an air quality assessment, a dust management plan and a noise impact assessment.
64. My concern is with the land use planning implications of the mixed use and the effects on amenity, not the regulatory controls that may be imposed by other agencies. Once a land use has planning permission, planning conditions must be reasonable and not negate the benefit of the permission. Within this context, the proposed operating hours would be unacceptable in this very quiet environment and indicate that the site is not in an appropriate location for the use. Furthermore, there are no proposals to restrict hours of sorting of waste or other on site activities, which potentially would be very noisy. Working practices may well ameliorate effects on air quality through dust suppression and odour control but the fact remains that a waste transfer facility, even as part of a mixed use, is an incompatible land use within this small rural village.

Local economy and waste management

65. The facility may well help to secure the re-use, recovery or disposal of waste, contribute to recycling targets and to secure retention and a small increase in employment. These would be benefits of the scheme. However, the aim of the NPPW is to ensure that positive outcomes are achieved without endangering human health and without harming the environment. Moreover, in the absence of information from the appellant to place his facility in a wider context I attach only a small amount of weight to the waste benefits.
66. The Framework encourages the sustainable growth and expansion of all types of business in rural areas and the development and diversification of agricultural and other land-based rural businesses. The appellant stated that the development represents an extension of the existing use, consistent with their business and it would not be practical to relocate the business to another site. No specific information was provided to support or enable an understanding of this statement, which limits the weight I can attach to this matter. The Framework also recognises that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements. However, in these circumstances development must be sensitive

to its surroundings and not have an unacceptable impact on local roads. My assessment shows that the development has and would result in considerable harm to the local environment, resulting in conflicts with national planning policies.

Fallback

67. As noted earlier the evidence indicates that the maintenance depot for lorries was of a very different character. There is no evidence to show that the fallback mixed use resulted in harm comparable to the probable harm resulting from the change of use. Therefore this consideration adds very little weight in favour of the development.

Conclusions on ground (a)

68. I have concluded that the development results in less than substantial harm to the significance of Laurel Farmhouse and to the Church of St James. Applying policy in the Framework I attach great weight to the conservation of Laurel Farmhouse and a greater degree of weight to the conservation of the Grade I listed Church. When these harms are weighed against the limited public benefit demonstrated in terms of the local economy and waste management the balance is strongly against the development. In addition, in respect of the SSSI the Framework indicates that the development should not be permitted.
69. Laurel Farm is not in a preferred location for a mixed use development that includes a waste transfer facility as one of the primary uses. Furthermore, when assessed against the relevant environmental criteria identified in Policy GP4, and the relevant factors in Appendix B of the NPPW, serious harms have been identified. The development is contrary to Policies WLP1.2 and WLP8.35 of the WLP and Policies GP3, WP3, WP8 and WP9 of the SMWLP. The development is not in accordance with the development plan when read as a whole. National policy in the Framework and the NPPW also does not support the development.
70. The mixed use development that includes a waste transfer facility is not in an acceptable location and the appeal on ground (a) does not succeed.

Appeals on ground (f)

71. The issue is whether the requirements are excessive in order to achieve the purpose of the notice.
72. The purpose of the notice is to remedy the breach of planning control, not to require cessation of a lawful use or to secure removal of materials that are connected with the previous lawful use. To that end I intend to vary the requirements accordingly.
73. To this extent the appeals on ground (f) succeed.

Appeals on ground (g)

74. The issue is whether the compliance periods of two days and three months are reasonable.
75. The appellant is seeking a period of 6 months to allow time to process the remaining inert waste and to clear the land.

76. In deciding on a reasonable compliance period(s) consideration needs to be given to what the recipient will have to do in practice to carry out the required remedial steps and consequently how much time it is reasonable to permit for that purpose. Account also must be taken of the need to end as quickly as possible the harms to the local environment and amenity of residents, bearing in mind that effective enforcement is important to maintain public confidence in the planning system⁵.
77. With these considerations in mind a period of fourteen days will be allowed to cease the unauthorised mixed use and in view of the extent of the waste storage facility a period of four months will be allowed to clear the site, both periods being from the date the notice takes effect. To this limited extent the appeals on ground (g) succeed.

Overall Conclusion

78. For the reasons given above, I conclude that the appeals should not succeed. I shall uphold the enforcement notice with a correction and variations. In relation to Appeal A I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

DECISIONS

Appeals Refs. APP/V3500/C/21/3272484 and APP/V3500/C/21/3272485

79. It is directed that the enforcement notice is corrected in paragraph 3 by the deletion of the description of the matters which appear to constitute the breach of planning control and the substitution of: "Without planning permission, the unauthorised material change of use of the Land from a mixed use comprising residential, agriculture and a maintenance depot for lorries to a mixed use comprising residential, agriculture, a maintenance depot for lorries and a waste transfer facility for the importation, processing, sorting and storage of waste together with the formation of hardstanding as part and parcel of the material change of use."
80. It is directed that the enforcement notice is varied:
- In paragraph 5 What You Are Required To Do by the deletion of the wording of paragraph 5.1 and the substitution of the wording "Cease the mixed use of the land for residential, agriculture, a maintenance depot for lorries and a waste transfer facility for the importation, sorting, processing, and storage of waste"; and the addition of paragraph 5.2 with the requirement stating "Remove from the Land all materials, plant, equipment and waste associated with the waste transfer facility, including the material spread on the land to form hard standing as part and parcel of the material change of use."
 - In paragraph 6 Time for Compliance by the deletion of the wording of paragraph 6.1 and the substitution of "In respect of paragraph 5.1 above, fourteen days after the date on which this notice takes effect." and by the deletion of the words in paragraph 6.2 and the substitution of the words "In respect of paragraph 5.2 above, four months after the date on which this notice takes effect."

⁵ National Planning Policy Framework paragraph 59

81. Subject to the correction and variations, the appeals are dismissed and the enforcement notice is upheld and in respect of Appeal ref.
APP/V3500/C/21/3272484 planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Diane Lewis

INSPECTOR