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# Appeal Decision

Site visit made on 4 April 2023

**by John Gunn DipTP, DipDBE, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 April 2023**

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**Appeal Ref: APP/R0660/W/22/3310871**

**Forest Yard (formerly Cheshire Nurseries), Salters Lane, Siddington  
SK11 9LH**

- 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 Colin & Emma Egerton, Egertons Timber & Hardware Ltd against the decision of Cheshire East Council.
  - The application Ref 21/4137M, dated 28 July 2021, was refused by notice dated 13 May 2022.
  - The development is the change in use of land and buildings from a redundant horticultural nursery to a timber merchant.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The Council's decision notice refers to saved policies of the Macclesfield Borough Local Plan (MBLP). The Site Allocations and Development Policies Document (SADPD) is the second part of the Cheshire East Local Plan (CELPs) and was adopted on 14 December 2022. The policies in the SADPD supersede those within the MBLP. The Council has provided the revised policies in their statement of case and the appellants have referred to them in their appeal submissions. Consequently, I am satisfied that no party has been prejudiced by my consideration of the appeal proposal against the policies set out in the SADPD.
3. I have used the description given on the original application form but have removed 'Retrospective' as this is superfluous.

## Main Issues

4. The main issues are
  - Whether the proposed development would be acceptable in principle in this location, having regard to local planning policy with regards to the location of employment development within the open countryside and;
  - The effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance.

## Reasons

*Whether the proposed development would be acceptable in principle in this location, having regard to local planning policy.*

5. The appeal site is located on the edge of the settlement of Siddington. The land located immediately to the south and east of the site contains polytunnels, or the remnants thereof, which were used in connection with a former nursery. The site is bordered on the north-eastern and north-western boundaries by residential properties. Both main parties agree that for the purposes of planning policy the appeal site is located within open countryside.
6. Policy PG6 of the CELPS, adopted in July 2017, seeks to protect open countryside in Cheshire East from urbanising development recognising that this area is cherished for its scenic, recreational, aesthetic and productive qualities. To this end Policy PG6 of the CELPS only permits development in the open countryside for certain essential or limited purposes appropriate to the rural area. Sub paragraph 3 sets out exceptions to this requirement and allows, amongst other things, the replacement of existing buildings and the expansion or redevelopment of an existing business. The appeal proposal does not fall within any of those limited exceptions.
7. Notwithstanding the above paragraph 81 of the National Planning Policy Framework (the Framework) states that "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development". Moreover, at Paragraph 84 it supports the development and diversification of agricultural and other land-based rural businesses.
8. Policy RUR10 of the recently adopted SADPD is compliant with the Framework as far as it supports employment development in rural locations where it is of a scale appropriate to the location and setting, the nature of the business means that a countryside location is essential, and where local employment opportunities are provided that support the vitality of rural settlements.
9. On my site visit I saw the development currently operates on a limited scale with timber products sparsely distributed on a hard surfaced area to the rear of the site at heights no greater than 1.5m. The storage areas were well screened by existing landscape features from the surrounding countryside and the appellants have indicated that they would provide a new hedge along the south boundary of the site. Consequently, I am satisfied that subject to appropriate conditions restricting the height of the timber storage, and the provision of additional landscaping, the development would not appear as a prominent feature within its rural setting. This weighs in favour of the development.
10. The main parties disagree over whether the nature of the business means that a countryside location is essential. The Council assert that the business is of a type that they would normally expect to be in a sustainable location or on an allocated employment site. The appellants indicate that they considered, and discounted several other sites as being unsuitable, before establishing their business at the appeal site. They also suggest that most timber yards are within countryside locations as larger yards are required which are not generally available in urban areas. That said, I have no details of other sites that have been considered by the appellants, or the locations of similar businesses.

11. Therefore, whilst I accept that the appeal site may be the appellants preferred option, in the absence of substantive evidence I am unable to conclude, with any certainty, that it is the only site that would meet their requirements. Moreover, given the nature of the business, which relies on the importation of products from other locations, I am not persuaded that it can reasonably be described as agricultural or a land based rural business or that it is essential that it needs to be located in the countryside.
12. The development currently provides employment for two people, and the appellants have indicated that they have advertised in the local community with a view to employing part time staff who live locally. Although any employment generated by the development would weigh in its favour, given the scale of the operation, any benefit would be limited.
13. I have also taken into account the former use of the site as a horticultural nursery. The use ceased in 2012 and most of the infrastructure, including polytunnels, has been removed from the site. Consequently, any suggestion that the former use may recommence is nothing more than a theoretical proposition. Even if, I accept that a fall-back position exists I have no substantive evidence before me to enable a comparison to be made between the previous use and its current use as a timber merchant.
14. Accordingly, on this main issue, I conclude that the development is not acceptable in principle in this location, having regard to local planning policies. It would conflict with Policies PG6, MP1, SD1 and SD2 of the CELPS and Policy RUR10 of the SADPD which jointly seek, amongst other matters, to protect the natural environment and restrict development within the countryside to certain essential or limited purposes appropriate to the rural area.

#### *Living conditions*

15. The appeal site is located within the countryside and is served by a country road with limited traffic movements which provides a tranquil and verdant setting for the development.
16. During my site visit I was able to observe that activity on the appeal site was extremely limited. There were two people working on the site, one within the storage area and one in the office/reception. A forklift truck and a small flatbed lorry were parked within the storage area. I saw no evidence of power tools being used on the site. However, I acknowledge that these observations only provide a snapshot of site conditions at a particular time. Given the nature of the business, I accept there are likely to be variations in the level of activity during the week and the seasons of the year.
17. Large delivery vehicles visiting the site would be visible from neighbouring residential properties, and given the low ambient noise levels, it is likely that they would be heard by nearby residents. The appellants indicate that deliveries are infrequent with an average of 3-5 HGV deliveries per month. The time taken to offload the vehicles is normally between 10 to 30 minutes and occur between 0800 to 1600 Monday to Friday, with no activity taking place on Saturday or Sunday. A log submitted by the appellant indicates that over a 7-week period a total of 182 visits were made to the site by customers and delivery drivers, which equates to approximately five visits per day.

18. I have also taken into account reference to the operation of the forklift truck, and the use of a reversing alarm. I am informed by the appellant's that a white noise reversing alarm has now been fitted to the vehicle which, whilst ensuring compliance with health and safety legislation, reduces any potential noise disturbance from this source.
19. Overall, the level of activity arising from the development, including vehicular movement, appears low and therefore, whilst recognising that any intrusion into people's daily life can be annoying, I find that it does not result in overall terms it does not result in a significant harmful impact on the living conditions of neighbouring occupiers. Furthermore, by restricting the use of power tools and limiting the hours of operation to those specified on the application form, any impact on the living conditions of neighbouring residents would be minimised. This could be achieved by the imposition of appropriately worded conditions. I have also borne in mind that no objections were raised by the Council's Environmental Protection Officer.
20. In conclusion, on this main issue, I find that the development does not have a significantly harmful effect on the living conditions of the occupiers of neighbouring properties, with particular regard to noise and disturbance. Consequently, the development accords with Policy SE12 of the CELPS and Policies RUR10.2.iii and HOU12 of the SADPD which, amongst other matters, seek to ensure that developments do not cause unacceptable harm to the amenities of nearby occupiers.

### **Other Matters**

21. Existing boundary treatment between the appeal site and the neighbouring residential provide an effective visual screen of the timber products. Therefore, I am satisfied that the development does not have a significantly harmful impact on the outlook from neighbouring properties. Additional planting could be secured by a suitably worded condition.
22. I have taken into consideration the appellants assertion that the appeal site is well located relative to their customer base. That said, I have no substantive evidence to indicate that the appeal site is the only site meet that requirement.
23. I have noted comments from local residents regarding advertisements that are being displayed on the grass verge on Salters Lane. This is not a matter before me for consideration.

### **Conclusion**

24. Drawing my conclusions together, the harm and conflicts that I have identified are such that the development should be considered as in conflict with the development plan when taken as a whole. Material considerations, including the Framework, do not indicate to me a decision should be made other than in accordance with it. The appeal is therefore dismissed.

*John Gunn*

INSPECTOR