



Appeal Decision

Site visit made on 25 April 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2023

Appeal Ref: APP/Z3825/W/22/3292174

Hurston Lane Depot, Hurston Lane, Storrington RH20 4AF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Joe Ray against Horsham District Council.
 - The application Ref DC/21/1279, is dated 1 June 2021.
 - The development proposed is mixed use of premises for Classes B2, B8 and E(g).
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal is against the Council's failure to determine the planning application within the relevant statutory timeframe. However, I have had regard to the Council's appeal statement and suggested refusal reasons, which provide clarity in terms of the reasons why the Council would have refused planning permission for the proposed development, had it been able to do so. These have formed the main issues below which the appellant has had the opportunity to respond to.
3. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the site for B2 & B8 uses is lawful as claimed by the appellant. If the appellant wishes to ascertain whether the B2 & B8 use of the building and wider site is lawful, they may make an application under section 191 of the Act.
4. At the time of my visit, I saw that stacks of bricks had been brought onto the site and a forklift truck was in operation. However, the appeal building did not appear to be in operation for the uses proposed. As operations on site did not reflect the proposed uses, I have considered the appeal as a proposed scheme and on the basis of the submitted drawings.

Main Issues

5. The main issues are:
 - The effect of the proposed development on highway safety; and
 - The effect of the proposal on the character and appearance of the countryside.

Reasons

Highway safety

6. The Council's second suggested reason for refusal of the planning application asserts that insufficient information had been provided to demonstrate that the proposed access arrangements would provide safe and suitable access for all users of the development.
7. At my site visit, which I appreciate is only a snapshot in time, I observed how access onto Hurston Lane from the south on the A283 was sufficiently wide enough for two vehicles to enter and exit the junction. There are signs in the vicinity advising that it is not suitable for HGVs. When travelling toward the appeal site, the road at many points narrows and, due to overhanging trees forces taller vehicles to drive in the middle of the road. It was not possible to drive the full northern route from the appeal site to the A283 as the road was flooded. I did however observe that the road was also narrow and appeared to be largely single track with limited opportunities for vehicles to pass.
8. In order to access the appeal site from Hurston Lane, road users must travel along a single-track publicly accessible road with two small passing places. Due to the distance between Hurston Lane and the appeal site, it is not possible to establish if there are other users on the road before entering the access road. At the end of the access track, is an open hard surfaced area that is not delineated to identify which areas fall within the appeal site and those under the control of the wastewater sewage works.
9. The appeal is not accompanied by a transport statement or traffic assessment. The appellant considers that it is likely, on the balance of probabilities, that the previous use generated more traffic than the proposed use. The appellant anticipates brick deliveries to generate a maximum of 8 movements a day. However, insufficient details have been provided as to the type of vehicles that would be making these brick deliveries or the route that would be taken to access the site. Without confirmation of the types and number of vehicles, it has not been demonstrated that users can safely access and egress the appeal site with sufficient passing places to avoid conflict with other road users and thereby avoid the need to reverse back along or onto Hurston Lane or back into the appeal site.
10. The appellant has also not provided satisfactory evidence in terms of layout to demonstrate how delivery vehicles and other business vehicles associated with the appeal site and adjacent wastewater sewage works can park, manoeuvre and turn around within the site. Whilst, the appellant suggests the cars and vans will be scattered across the site, without such evidence as a layout plan and based on my observations at the site visit I am not satisfied that there would be sufficient space for loading, servicing, staff parking and storing goods. Furthermore, as I am not satisfied that sufficient space is available, it would not be appropriate to attach a condition requiring these details at a later stage.
11. In support of the appeal, the appellant refers me to a potential fallback position in relation to development that could take place on the site if the appeal was subsequently turned down. This arises from the appellant's view that the proposed uses including use Class E could take place without the need for

permission and therefore there would be no restriction on types and movements of vehicles.

12. For significant weight to be afforded to a fallback position, there needs not only to be a real possibility of it being carried out, but it would also need to be equally or more harmful than the appeal scheme. In this instance, firstly no certificate of lawfulness to demonstrate the uses would be lawful has been provided. Additionally, even if I were to accept that the proposed scheme would generate fewer vehicle trips, insufficient details on the type of vehicles using the appeal site and surrounding highway network has been provided. Without such detail, I cannot be sure that any extant permission for the site is comparable with the appeal scheme. Therefore, I attach little weight to this fallback position.
13. As such, based on the lack of substantive evidence to demonstrate that the proposal would not have implications for highway safety, I find that the proposal would be contrary to Policies 40 and 41 of the Horsham District Planning Framework (HDPF). These policies, amongst other things, seeks to ensure that developments provide safe and suitable access for all vehicles and adequate parking and facilities meet the needs of anticipated users.

Character and appearance

14. Policy 26 of the HDPF relates to countryside protection. It states that outside of built-up area boundaries, the rural character and undeveloped nature of the countryside will be protected against inappropriate development. The Council in their Statement have confirmed that the change of use of the site, which is on previously developed land, is broadly acceptable in relation to Policy 26 of the HDPF. However, there is a requirement that development does not lead, either individually or cumulatively, to a significant increase in the overall level of activity in the countryside, and protects, and/or conserves, and/or enhances, the key features and characteristics of the landscape character area in which it is located.
15. The appeal site is presently occupied by an existing building and a large area of hardstanding to the west. The appeal building and hardstanding area share a close relationship with an adjacent wastewater sewage works which is made up of various buildings, tanks and associated equipment. There is an open area of hard surface between the appeal site and wastewater sewage works which is accessed down a narrow single-track road taken from Hurston Lane.
16. Despite the appeal site's countryside location, outside a defined boundary, it is seen in proximity to the adjacent wastewater sewage works giving the site a small enclosed industrial appearance. The complex of buildings, tanks and other equipment are seen in wider views with well-established woodland and greenhouses on a nearby farm.
17. There is no disagreement between the main parties that the site has previously operated as a workshop for vehicle repair, maintenance and storage of Council vehicles. At the time of my site visit, it was evident from the design of the building and layout of the site that an intensive use likely took place in comparison to the quieter countryside uses found in the wider area. Consequently, I find the site has an existing industrial character and appearance.

18. The proposed scheme would see no increase in built form or increase in the size of the site. However, there would be some visual impact from the stacking of pallets of bricks. In my view, subject to an appropriately worded condition requiring layout and height details of the pallet stacks any visual impact would be largely seen in the context of a small industrial area thereby preventing any visual harm to the countryside.
19. There is a disagreement between the main parties on the approved use of the site. Even if I were to accept that the appeal site was in a Sui Generis use, an extant permission for the use of the site for vehicle storage and repair would likely have generated considerable noise levels during its operation.
20. The change of use of the site and building to the uses proposed would be unlikely to generate significant noise levels over and above those previously generated from the site. However, there is no evidence before me to indicate that these operations took place 24 hours a day.
21. I am mindful that the site is within a wider countryside location and the introduction of additional industrial-level noise, particularly late at night, would significantly impact the quiet character of the surrounding area. Nonetheless, I am satisfied that subject to an appropriately worded condition on hours of operation would ensure that there is no unacceptable level of noise activity to the detriment of this countryside location.
22. It is accepted by the Council that the appeal site when previously in operation, generated a number of vehicle movements on a daily basis. Given the proposed uses, whilst there are likely to be a number of vehicle movements, there is no evidence before me to indicate that vehicle movements would be significantly above those previously taking place at the site. Based on the information before me, I do not find that the introduction of the proposed uses, including vehicle parking and associated vehicle movements, would give rise to a significant increase in the overall level of activity in the countryside.
23. I therefore conclude that the proposed development would not harm the countryside's character and appearance. Accordingly, in this respect, it would accord with Policy 26 of the HDPF, which, among other things, seeks to prevent development resulting in a significant increase in the overall level of activity in the countryside to the detriment of key features and characteristics of the landscape character area in which it is located. The appeal scheme would also accord with Policy 1 of the Storrington, Sullington & Washington Neighbourhood Plan which, in part, requires conformity with development plan policies in respect of the management of development in the countryside.

Other Matters

24. The Council's third suggested reason for refusal relates to water neutrality. The appeal site is located within the Sussex North Water Supply Zone, which includes supplies from groundwater abstraction which cannot, with certainty, conclude no adverse effect on the integrity of the Arun Valley Special Area of Conservation, Arun Valley Special Protection Area and Arun Valley Ramsar Site.
25. Developments within Sussex North must therefore not add to this impact and one way of achieving this is to demonstrate water neutrality. The appellant has not supplied a water neutrality statement but contends that the proposed mixed-use of these premises will not increase in any material way the use of

water at this site. As the competent decision-making authority, if I had been minded to allow the appeal, it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

26. In reaching my decision, I have had regard to the fact that there would be some benefits from the potential ecological enhancements by way of planting and bringing a redundant previously developed site back into use. Given the scale of the proposed development, these contributions would be modest. As such, I ascribe these benefits limited weight.
27. The appellant highlights that no objection has been received from the Parish Council. However, a lack of objection does not lead me to a different conclusion on the main issues of the appeal.
28. A letter of support from a third party was received which states the appeal site and nearby roads were acceptable for the use of dustcarts for a number of years. However, in the absence of sufficient details on the type/size and number of vehicles likely to be using the appeal site I am not persuaded to reach a different conclusion on the potential harm to highway safety.
29. The Council have raised concerns with regard to the proximity of the appeal site to neighbouring dwellings and the requirement for an acoustic assessment, restrictions on power tools, closed doors and no floodlighting. However, I found on the second main issue that subject to a suitably worded condition on hours of operation the proposed scheme would be unlikely to generate significant noise levels above those experienced when the appeal site was in use as the Council depot. Had the appeal scheme been allowed it would have been necessary to seek details of any proposed floodlighting, however, this could have been controlled by condition.
30. My attention has been drawn to application ref: DC/15/2814 approved by the Council. From the limited details supplied, the permission relates to B2 and B8 uses with a number of traffic movements for various types of vehicles. Nevertheless, this site is not located in proximity to the appeal site and was approved as part of a review of other Council services to combine sites. Given these differences, I cannot draw any comparisons which weigh in favour of the proposal and have given this little weight. In any event, I have considered this appeal on its own merits in light of the evidence before me.

Conclusion

31. The proposal would not harm the countryside's character and appearance. Notwithstanding this and for the above reasons the proposed development has not provided sufficient evidence to demonstrate that the proposal would not have unacceptable implications for highway safety. As a result, the proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
32. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR