



Appeal Decision

Hearing held on 16 May 2023

Site visit made on 16 May 2023

by James Blackwell LLB (Hons) PGDip

an Inspector appointed by the Secretary of State

Decision date: 22 June 2023

Appeal Ref: APP/K3415/W/22/3313524

Elford Lowe Farm, Elford Road, Elford, Tamworth B79 9BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ian Hilderley against the decision of Lichfield District Council.
 - The application Ref 22/00652/FUL, dated 21 April 2022, was refused by notice dated 21 June 2022.
 - The development proposed is described as 'the use of vehicle storage area and HGV parking with access off Elford Road'.
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Decision

1. The appeal is allowed and planning permission is granted for the use of vehicle storage area and HGV parking with access off Elford Road at Elford Lowe Farm, Elford Road, Elford, Tamworth B79 9BJ in accordance with the terms of the application, Ref 22/00652/FUL, dated 21 April 2022, subject to the conditions set out in the Schedule to this decision.

Background and Preliminary Matters

2. I have issued my decision omitting the word "retention" from the banner heading above, as this does specifically describe the development. Nonetheless, the vehicle storage compound (VSC) is already used to store a greater number of vehicles than lawfully permitted and the access has already been constructed. The development is therefore retrospective in nature.
3. The appeal site benefits from planning permission for the storage of caravans, motorhomes and cars. Consent for the VSC was first granted under planning permission Ref 16/00921/COU (COU Permission). This consent permitted a change of use of the appeal site from agricultural land to caravan/motorhome storage. Planning permission Ref 18/00463/FULM (Extant Consent) subsequently altered the conditions attached to the COU Permission, allowing the VSC to also be used for the storage of cars. There is a condition attached to the Extant Consent which limits the number of vehicles which may be stored in the VSC to 335.
4. The appeal application seeks to extend the maximum number of vehicles which may be stored in the VSC to 1000. It also seeks to allow an additional 40 Heavy Goods Vehicles (HGVs) to be stored there.
5. There are currently three separate accesses to the appeal site. The COU Permission and the Extant Permission were granted on the basis that the VSC would be accessed via the north-western entrance to the site. This access is

known as Entrance A. An additional access has been constructed to the south of the site which is currently unlawful. The present appeal seeks to regularise this access, which is known as Entrance B. There is also an access driveway which runs parallel to Entrance B, providing access to Elford Lowe Farmhouse (Farmhouse Access). The Farmhouse Access also provides an access route into the wider farm complex. These accesses shall be referred to accordingly in this decision.

6. The Council's third reason for refusal concerned a lack of information regarding surface water drainage in connection with the development. The agreed Statement of Common Ground (SoCG) confirms that any such drainage details could be satisfactorily addressed by condition, which would overcome this reason for refusal. I have addressed this point further in the conditions section of this decision.
7. The Council's fourth reason for refusal alleged that the scheme does not constitute a sustainable form of development, yet little evidence has been advanced to support this supposition. I have therefore addressed any sustainability issues as part of the Planning Balance.
8. Under the Matters of Agreement in the SoCG, it says "the development will cause less than substantial harm to the setting of one Grade II Listed Building". This is in reference to Elford Lowe Farmhouse. During the Hearing, the appellant indicated that this statement had been included in the SoCG in error. Instead, and in accordance with the conclusions of its Heritage Statement¹, the appellant contends that the development has a neutral impact on the setting of Elford Lowe Farmhouse. Notwithstanding the content of the SoCG, I have assessed the effect of the development on setting of Elford Lowe Farmhouse as part of the second main issue.
9. The Council has commenced a review of the Lichfield District Local Plan Strategy 2015 (Local Plan) and a draft version of the Lichfield District Local Plan 2040 (Emerging Plan) was submitted to the Secretary of State in July 2022. Nonetheless, no date for public examination of the Emerging Plan has yet been set due to issues relating to its evidence base. Given the early stage of the Emerging Plan, like the main parties, I agree that the policies contained therein carry very limited weight in the determination of this appeal. Moreover, the parties agree that Strategic Policies 12 and 14 of the Emerging Plan, which are referred to in the Council's reasons for refusal, are not relevant to the scheme.
10. During the Hearing, the Council submitted a Landscape and Visual Consultation², in direct response to the Council's LVA. The appellant had an opportunity to comment on this document during the Hearing and raised no objections to its acceptance. As these documents do not alter the nature of the scheme originally considered by the Council at planning application stage, interested parties would not be unduly prejudiced, and I have accepted this document.
11. The appellant also submitted a statement relating to the practical workings of the farm and the importance of the income generated from the development with regard to the wider farm operations. The Council raised no objection and

¹ Built Heritage Statement, Elford Low Farm, Elford, Staffordshire (RPS), March 2022

² Landscape and Visual Consultation, External Advice Note 1, Crestwood Environmental, 16 May 2023

given that the statement did not raise any substantive new material, I have again accepted this document.

Main Issues

12. The main issues are:

- the effect of the development on the character and appearance of the area; and
- the effect of the development on the setting of Elford Lowe Farmhouse, a grade II listed building, with particular regard to the access (Entrance B).

Reasons

Character and Appearance

13. The appeal site is situated to the south of Elford village and falls outside of any defined settlement boundary within the Council's Local Plan. Whilst the wider area is distinctly rural in nature, the site itself is occupied by the existing VSC, which can be occupied by up to 335 vehicles. This means the appeal site already assumes a prominent commercial character, notwithstanding the surrounding countryside. The neighbouring farm complex is also made up of a series of large commercial buildings which are used for a variety of uses, including general industry and storage and distribution. Physically, the site relates closely to these units, which amplifies the site's underlying commercial appearance.
14. Whilst the footprint of the VSC is not altered by the development, the increase in vehicle numbers is significantly more than the number of vehicles permitted to use the appeal site. As a result, the degree of openness within the VSC is reduced by the increase in the number of vehicles, which serves to amplify the site's overall visual scale and commercial intensity. Moreover, the introduction of HGVs, which are typically much larger than cars, motorhomes or caravans adds further to this urbanising impact.
15. In relation to built form, Entrance B includes extensive hardstanding, large security gates and red brick piers. It is a prominent feature which adds an additional degree of commercialisation to the appeal site. Therefore, and despite the existing commercial use of the site, the proposed works and activities appear in stark contrast, and at odds with, the rural character of the surroundings.
16. Nonetheless, the extent of visual impact is limited in scope. The VSC is surrounded by a large soil bund, which limits its visibility from many public vantage points. Indeed, owing to the bund and the sloping topography of the land to the south of the VSC, the VSC is barely perceptible from Elford Road. Moreover, the visual impact of the increase in vehicles is primarily localised to views from the north of the site, and in particular, from the nearby public rights of way. In time, the proposed landscaping, which will include hedgerow along the western, northern and eastern sides of the bund, will significantly reduce the visual impact from this direction.
17. In terms of the access, the use of sympathetic materials which reflect the external materials of the Farmhouse, helps to reduce its contrast with the rural character of the surrounding land. Entrance B also echoes the appearance of

Entrance A further north along Elford Road, which allows it to visually integrate with the wider farm enterprise. These factors also assist in mitigating against the associated harm.

18. As a result of the foregoing, the development does harm the character and appearance of the area. However, this harm is limited in scope due to the existing context of the site and the mitigation measures proposed.
19. Nonetheless, the development conflicts with certain objectives set out in Policies CP3, NR1 and BE1 of the Local Plan, which seek to ensure development protects and enhances the character and distinctiveness of Lichfield, including its countryside which is valued as an asset in its own right. The development also conflicts with Policy LS1 of the Elford Parish Neighbourhood Plan 2019 (Neighbourhood Plan), which requires rural diversification development to be in-keeping with the rural character of existing businesses in terms of size and scale. Finally, the development conflicts with the National Planning Policy Framework (2021) insofar as it seeks to protect the rural beauty of the countryside.

Setting of Elford Lowe Farmhouse

20. The appeal site is situated to the north-east and east of Elford Lowe Farmhouse (Farmhouse), which is a grade II listed building³. The Farmhouse dates back to the late 18th century and comprises a three-storey red brick dwelling with a hipped plain tile roof. On account of its height, the Farmhouse is prominent in the landscape and is particularly dominant in views on its approach from a south-easterly direction along Elford Road. The significance of the Farmhouse principally derives from its historical value, as it is representative of the local and regional character of a typical eighteenth-century farmhouse. The surrounding agricultural land makes a positive contribution to the building's historical interest due to the close functional relationship between the two, and its rural character.
21. Entrance B has introduced a large expanse of hardstanding adjacent to Elford Road. Given that the access has been constructed to accommodate two-way HGV movements, its width is significant. As Entrance B would previously have been occupied by grass verge and hedgerow, this extensive hardstanding has undoubtedly changed the open and rural land which formerly surrounded the Farmhouse. In this regard, the development has partially eroded its historical rural setting, and in turn its historical significance. This erosion is exacerbated by the commercial use of the access, given the number and frequency of vehicles passing so close to the Farmhouse.
22. The access security gates, which are flanked on either side by red brick piers and adjoining walls amplify its dominance within the landscape, particularly when approaching from a south-easterly direction. This further erodes the historical relationship between the agricultural land and the Farmhouse.
23. On account of these factors, Entrance B does harm the setting, and consequently the historical significance, of the Farmhouse. I consider this harm to be less than substantial, which reflects the view of the Council.
24. Paragraph 199 of the Framework is clear that great weight should be given to a heritage asset's conservation, irrespective of whether any harm is less than

³ LB Ref: 7/83

substantial or otherwise. Paragraph 202 of the Framework goes on to say that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use”.

25. In terms of public benefits, several businesses are understood to rely on the extended capacity of the VSC in order to operate viably, including Johnsons Cars and Virginia Logistics. Together, these businesses employ approximately 100 people. Whilst Virginia Logistics does not yet have consent to operate lawfully from the adjacent commercial units, the appellant suggests any alternative business seeking to use the VSC in a similar way would employ a comparable number of people, a supposition which does seem rational. Moreover, there are legitimate concerns that it would not be viable for the existing businesses to operate from the appeal site without the increased capacity of the VSC. In turn, the employment opportunities generated from the increased capacity of the VSC are notable public benefits of the scheme.
26. Across the wider farm enterprise, more than 240 people are understood to be employed, which the Council does not dispute. The income generated from the increased capacity of the VSC helps to support the ongoing viability of these wider farm operations, and in turn, the jobs they support. More generally, the income from the development also helps the farm to survive difficult trading conditions across the farming industry. These are again notable public benefits of the scheme.
27. Without Entrance B, vehicles accessing and egressing the VSC would be reliant on Entrance A, which is located on the north-western side of the site. In such circumstances, vehicles would need to pass between the commercial units operating from the adjacent farmstead, an area routinely used by large commercial and agricultural vehicles. The increased use of this throughway could therefore lead to substantially more congestion across the site. This risks conflict between vehicles and/or workers, thereby heightening the risk of accident. The continued use of Entrance B, which provides a safe and direct access to the VSC, therefore provides notable highway safety benefits, even with regard to the extant lawful use of the VSC.
28. Both the Council and the appellant agree that the Farmhouse Access is not suitable for use by HGVs nor other large vehicles, including motorhomes or caravans. This is confirmed by the appellant’s Transport Statement⁴. Nonetheless, the use of the Farmhouse Access is not restricted. If Entrance B could not be used to access the VSC, some drivers may opt to use the Farmhouse Access, which provides a more direct route to the VSC. This could pose significant highway safety concerns, particularly in the event of any two-way vehicle movements, as this could require drivers to reverse out on to Elford Road, where vehicles typically travel at speed. In the event of approval of the scheme, any vehicle routing strategy secured by condition could restrict the use of the Farmhouse Access to vehicles associated with the farm dwelling alone, which would help improve the highway safety of the wider site.
29. Bringing these factors together, I have found that the development access causes less than substantial harm to the setting of Elford Lowe Farmhouse. In line with my statutory duty under s66(1) of the Planning (Listed Buildings and

⁴ Elford Lowe Farm, Elford, Retention of Parking Areas, Transport Statement (DTA Transport Planning Consultants)

Conservation Areas) Act 1990, I attach considerable importance and weight to the desirability of preserving the setting of the Farmhouse, and consequently, to this harm. However, in this instance, the identified benefits of the farm diversification scheme in terms of job creation, support to the ongoing viability of the wider farm operations and to highway safety, are all significant public benefits. When taken together, I consider that these public benefits are sufficient to outweigh the less than substantial harm to the setting of the Farmhouse.

30. In turn, the development is consistent with Policy BE2 of the Lichfield District Local Plan Allocations Document 2019, which says harm to a heritage asset will only be permitted where it can be demonstrated that the ensuing harm is necessary to achieve public benefits that outweigh that harm. Similarly, the development is consistent with the overarching heritage principles of the Framework, which accept that the public benefits of a development can sometimes outweigh less than substantial harm to a heritage asset.
31. Nonetheless, I acknowledge the development does conflict with Policies CP14 and BE1 of the Local Plan, as well as Policy DH2 of the Neighbourhood Plan, all of which seek to safeguard the significance and setting of listed buildings.

Other Matters

32. An enforcement notice relating to Entrance B has previously been issued by the Council and upheld by an Inspector on appeal⁵. The Inspector concluded that the public benefits of the development were not sufficient to outweigh the less than substantial harm to the setting of the Farmhouse. Whilst I note the relevance of this decision, the enforcement appeal concerned the built access in isolation. It did not encompass any element of the VSC. As a result, the economic benefits arising from the VSC would not have factored into the Inspector's planning balance. Conversely, the benefits of the development in this instance encompass both the access and the VSC and are therefore materially different.
33. The appellant's Heritage Statement identifies two other listed buildings (Upfields Farmhouse and Milepost) and a Scheduled Monument (Low Bowl Barrow) within a 500-metre radius of the appeal site. None of these heritage assets have any direct intervisibility with appeal site, owing to the intervening distance, topography and vegetation between them and the appeal site. There is also no evidence of any historic links or any other ways in which the appeal scheme could affect the significance of these assets. Therefore, I am satisfied that the setting of each of these heritage assets is not affected by the development.

Planning Balance

34. As set out above, I have concluded that the development does cause some harm to the character and appearance of the area. The development therefore conflicts with Policies CP1, CP3, NR1 and BE1 of the Local Plan, as well as Policy LS1 of the Neighbourhood Plan, insofar as these policies seek to protect the distinctive character of the Lichfield District. However, in the context of the appeal site's existing commercial character, I consider the associated harm arising from these policy conflicts to be limited.

⁵ APP/K3415/C/19/3243581

35. I have also found that the development causes less than substantial harm to the setting of Elford Lowe Farmhouse, to which I attach considerable importance and weight. However, in accordance with Paragraph 202 of the Framework, I have concluded that the public benefits of the scheme outweigh the heritage harm in this instance. Nonetheless, the development does conflict with Policies CP14 and BE1 of the Local Plan, as well as Policy DH2 of the Neighbourhood Plan, all of which seek to safeguard the significance and setting of listed buildings.
36. On the other hand, Policies CP1 and CP3 of the Local Plan promote the efficient use of land, through prioritising previously developed land to promote sufficient local employment opportunities. Paragraph 84 of the Framework is also clear that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, as well as the development and diversification of agricultural and other land-based rural businesses. Paragraph 85 of the Framework goes on to say that “the use of previously developed land, and sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist”.
37. In the present case, the appellant contends the VSC could accommodate significantly more vehicles than the 335 currently permitted. Based on my observations during my site visit, this seems realistic. The potential of the site, particularly in terms of economic output and commercial gain, is therefore not fully realised if the number of vehicles within the VSC is limited to 335. Notwithstanding the site access, the expansion of the VSC and the business this generates is achieved without further encroachment into the countryside, whether on this site or elsewhere.
38. As a result, the scheme is consistent with the Local Plan’s and the Framework’s objective to make efficient use of land. It also meets the objectives of the Framework which seek to support the expansion of rural enterprises, particularly on land which has already been developed. In this regard, the scheme does represent a sustainable form of development, and is therefore consistent with paragraph 38 of the Framework, which says decision-makers should seek to approve applications for sustainable development where possible. These are material considerations which weigh heavily in favour of the scheme. The benefits identified in terms of farm diversification, generation of local jobs, ongoing viability of the wider farm enterprise and highway safety are also notable benefits of the development, which together, also attract significant weight.
39. Bringing these factors together, it is clear to me as a matter of planning judgement, that when taken together, the benefits of this appeal are significant and clearly outweigh the conflict with the development plan. Consequently, the material considerations indicate that I should determine otherwise than in accordance with the development plan and allow the appeal.

Conditions

40. I have reviewed the list of conditions suggested by both the appellant and the Council and have amended these in line with guidance contained in the Framework and Planning Practice Guidance.
41. Condition (1) requires a landscaping scheme to be submitted, approved and implemented, to help mitigate against the visual impact of the development.

There is a strict timetable for compliance because the permission is being granted retrospectively and it is not possible to use a negatively worded condition to secure the approval and implementation of the landscaping scheme before the development takes place. As worded, the condition will ensure the development can be enforced against if the requirements are not met. I have specifically defined the use of development to ensure any sanction for non-compliance would only extend to the use hereby permitted, as opposed to use of the VSC entirely. Condition (2) is included to help secure the longevity of the landscaping planting.

42. Condition (3) requires the submission, approval and implementation of an access scheme. In part, this condition has been included to overcome the Council's third reason for refusal, which identified a lack of information pertaining to surface water drainage. The condition will ensure that the access meets the highway authority's construction standards, including adequate provision for surface water drainage. As with the landscaping scheme, there is a strict timetable for compliance to ensure the development can be enforced against if the requirements of the condition are not properly met.
43. Condition (4) requires a layout scheme and vehicle routing strategy to be submitted, approved and implemented. This will ensure that vehicles accessing, and egressing Elford Lowe Farm use the most appropriate access, which will help safeguard highway safety across the site. The routing strategy can also restrict the Farmhouse Access to vehicles incidental to its domestic use. The layout plan will ensure that areas for the storage of different types of vehicles are properly demarcated, thereby minimising the visual impact of the scheme. Once again, this condition is worded in such a way that enables the development to be enforced against in the event of non-compliance with the condition.
44. Condition (5) limits the number and type of vehicles which may be stored at any one time in the vehicle storage compound, in line with the development sought in this appeal. These limits will help ensure that the use of the vehicle storage compound is properly controlled and regulated.
45. Finally, condition (6) restricts the installation of any external lighting within the development, unless it has first been approved by the Council. This will ensure the Council has sufficient control over any potential lighting which could adversely impact the area, whether visually or in amenity terms.
46. Whilst a standard plans condition was suggested by the parties, I do not consider this necessary, as the development is retrospective in nature. A separate condition was also suggested by the parties to restrict use of the Farmhouse Access. However, this restriction can be incorporated into the vehicle routing strategy required pursuant to condition (4).

Conclusion

47. Subject to the conditions set out in the Schedule, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

James Blackwell

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within 2 months of the date of this decision, a detailed landscaping scheme is submitted to the local planning authority for approval, and unless the approved scheme is implemented within 6 months of the local planning authority's approval (or such longer timescale as may be approved as part of the scheme), the use of the development (being use of the access in the position shown on drawing PL-CP-02 Block Plan (Entrance B) and the use of the vehicle storage compound for the storage of more than 335 cars, motorhomes or caravans) shall cease until such time as a scheme is approved and implemented.

The landscaping scheme shall include: (i) a detailed landscaping plan; (ii) planting plans (identifying existing planting, plants to be retained and new planting); (iii) written specifications including cultivation and other operations associated with plant and grass establishment; (iv) means of enclosure and retaining structures; (v) boundary treatments; (vi) details of hardstanding and hard surfacing materials; (vii) an implementation timetable; and (viii) a management and maintenance scheme.

Upon implementation of the approved scheme, the landscaping shall thereafter be maintained in accordance with the approved details.

- 2) Any trees or plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 3) Unless within 2 months of the date of this decision, an access scheme outlining the details of the construction specification of the access off Elford Road, details of its surface water drainage and any necessary access alterations, is submitted in writing to the local planning authority for approval, and unless the approved access scheme is implemented within 6 months of the local authority's approval (or such longer timescale as may be approved as part of the scheme), the use of the development (being use of the access in the position shown on drawing PL-CP-02 Block Plan (Entrance B) and the use of the vehicle storage compound for the storage of more than 335 cars, motorhomes or caravans) shall cease until such time as an access scheme is approved and implemented. Upon implementation of the approved access scheme, the access shall thereafter be maintained in accordance with the approved details.
- 4) Unless within 2 months of the date of this decision, a layout scheme and vehicle routing strategy for the vehicle storage compound is submitted to the local planning authority for approval, and unless the approved layout scheme and vehicle routing strategy is implemented within 3 months of the local planning authority's approval (or such longer timescale as may be approved as part of the scheme), the use of the development (being use of the access in the position shown on drawing PL-CP-02 Block Plan (Entrance B) and the use of the vehicle storage compound for the storage of more than 335 cars, motorhomes or caravans) shall cease until such time as a layout scheme and vehicle routing strategy is approved and implemented.

The layout scheme and vehicle routing strategy shall include detail of all parking bays, including designated parking bays for Heavy Goods Vehicles, turning areas and details of all access, egress and circulation routes for all vehicles using the vehicle storage compound.

Upon implementation of the approved layout scheme and vehicle routing strategy, the development shall thereafter be used and maintained in accordance with the approved details.

- 5) The vehicle storage compound shall be used for the storage of a maximum of 1000 caravans, motorhomes or cars at any one time and the parking of up to 40 Heavy Goods Vehicles.
- 6) No means of external lighting or illumination shall be installed unless and until a scheme for external lighting has first been submitted to and approved in writing by the local planning authority. Thereafter, any external lighting shall be installed and maintained in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT

Odette Chalaby, Barrister (No5 Barrister Chambers)

Hannah Hamilton-Rutter BA PGDip MA IHBC (RPS Group)

Ian Hilderley (Appellant)

Sallyanne Hilderley

Gary Holliday BA MPhil FCI (FPCR Environment and Design Ltd)

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Kerry Challoner BA (Hons) MRTPI (Lichfield District Council)

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