



Appeal Decision

Hearing Held on 5 September 2023

Site visit made on 5 September 2023

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/J3720/W/23/3320419

Cornwood Farm, Napton Road, Stockton CV47 8HU

- 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 Anthony Barrett of North Common Property Holdings Ltd against the decision of Stratford-on-Avon District Council.
 - The application Ref 21/03026/FUL, dated 21 September 2021, was refused by notice dated 19 October 2022.
 - The development proposed is Redevelopment of existing commercial site to provide new commercial units (use class E (g) (iii)) with associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for Redevelopment of existing commercial site to provide new commercial units (use class E (g) (iii)) with associated works at Cornwood Farm, Napton Road, Stockton CV47 8HU in accordance with the terms of the planning application Ref. 21/03026/FUL, dated 21 September 2021, subject to the conditions set out in the attached schedule.

Procedural Matters

2. I have amended the description of development from that set out in the planning application form to omit elements that do not constitute development, as agreed with the Council and appellant.
3. I heard views as to whether a hardstanding used for storage rear of some site buildings is lawful. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether that development is lawful. However, I shall consider the evidence, so far as it is material to this appeal. If the appellant wishes to ascertain whether it is lawful, they may make an application under section 191 of the Act.
4. Based upon what I heard the hardstanding was substantially complete by May 2019. The appellant considers it lawful because it meets the 4-year rule, whereas the Council is of the view that, as it entailed a change of use, enforcement action can be taken under the 10-year rule. A limited part of the land appears to have been used for storage prior to the current hardstanding

being present¹. Though the appellant suggests that was present from 1995, the limited evidence suggests it was not on all of the area in question.

5. The Council refers me to the Murfitt judgement², in which it was held that it was permissible for the enforcement notice, requiring a discontinuation of use, to also require physical restoration of land to its previous condition where integral to and solely for the change of use. The appellant refers me to the Fayrewood Fish Farms judgement³ in arguing it would constitute an engineering operation, and should be immune from action after 4 years.
6. I see no reason why it could not fall within the definition of an engineering operation. However, the judgements and what I heard lead me to the view that the hardstanding could be required to be removed by an enforcement notice if served within 10-years of a breach. However, the Council has not stated that enforcement action will be taken or expressed the intention to do so. Therefore, the area of hardstanding attracts limited weight.
7. On 5 September 2023 the government published a revised National Planning Policy Framework (2023) (the Framework). As the substantive revisions concern matters related to national policy for onshore wind development, in the context of the matters for consideration in this appeal, I have not sought the parties' views upon the changes.

Main Issues

8. The main issues are:

- whether or not the proposed development is compliant with policies concerned with the provision and location of employment development; and,
- the effect of the proposed development upon the character and appearance of the area.

Reasons

Employment development

9. Policy CS.15 of the Stratford-on-Avon Core Strategy (2016) (the CS) sets out a strategy seeking a balanced and sustainable distribution of development. It identifies locations where sustainable development will be accommodated to support the role of settlements and locations, with requirements proposals in specified locations are expected to address or be assessed against. Having regard to these, the appeal site is within the countryside.
10. Despite reference to it in the decision notice and both main parties' evidence, the Council and appellant agreed at the hearing, that given its relatively limited size, the appeal site does not constitute a Large Rural Brownfield Site (LRBS) under Policy AS.11 of the CS. No definition of 'large' was put to me and I am informed that by comparison to named policy sites, this site is considerably smaller. Based upon what I heard, the site is not an LRBS, so the proposal does not fall within any of the hierarchy of locations within CS.15, so it conflicts with its strategy for the distribution of development.

¹ Plate 6 of the Archaeological Desk Based Assessment by CSA Environmental (March 2020).

² v SSE & East Cambridgeshire CC [1980] JPL 598.

³ Fayrewood Fish Farms v SSE & Hampshire CC [1984] JPL 267.

11. Policy CS.22 of the CS seeks to promote development in sustainable locations to support economic growth and competitiveness, provide jobs, and improve the business environment. It takes a flexible approach to accommodating employment generating uses on existing industrial areas. The expansion of businesses in their existing locations will be supported, subject to the scale and type of activities, the site location and nature, its accessibility by sustainable transport modes, and effect upon local character. As the site forms part of the appellant's wider business, CS.22 lends some support to the proposal.
12. CS.22 states that opportunities for business development will be provided in the countryside in accordance with Policy AS.10, which states that to help maintain the vitality of rural communities and a strong rural economy, provision will be made for a wide range of activities and development. All proposals will be thoroughly assessed against matters including the provision for sustainable transport where appropriate and justified, prioritising the re-use of brownfield land and existing buildings, and avoiding the loss of large areas of higher quality agricultural land.
13. AS.10 sets out certain further circumstances where development could be acceptable. Criteria (I) states redevelopment at a similar scale of an existing building for business purposes, where it would result in a more effective use of the site, is acceptable in principle. Building floorspace would be less, volumes similar, but heights and building spread would be moderately greater. Having regard to the rear yard area, by virtue of encompassing it, there would be a marked increase in overall developed area and the development would be perceived as of a greater visual scale.
14. In this instance, I do not find the intensity of activity would be likely to marked increase this, though I consider other effects in this regard later. The recently erected agricultural building is not part of this appeal proposal⁴, but I do note the cumulative changes. Overall, the increased development means the proposal cannot be considered as a similar scale to existing, in conflict with AS.10(I).
15. In the discussion of Policy 4(a) of the Napton-on-the-Hill Neighbourhood Development Plan (2021) (the NP) the Council viewed its support for a proposal subject to it being of an appropriate scale to its setting as being linked to the requirement of Policy AS.10(I) and to be small-scale. Though it repeats parts of AS.10 in the pre-text, the Policy 4 wording does not refer to these requirements. Though having regard to the overall increase in scale, and its setting, I find the proposal does not gain support from Policy 4(a).
16. Their limited height suggests the existing buildings have very limited applications for many agricultural purposes, and I see no demonstration of a need for the building types. From what I saw and the substantive evidence before me, the buildings are in poor condition and likely to become redundant in the near future. This is due to them not being commercially rentable due to poor Energy Performance Certificate (EPC) ratings, so they could not be marketed for such a purpose. Making them fit for purpose with the requisite EPC rating is highly unlikely to be achieved without full site redevelopment with appropriate parking standards applied. This proposal would result in new rental building space in considerably more efficient buildings.

⁴ Prior Approval Ref. 23/00357/AGNOT.

17. From what I saw and heard, the site is not effectively used. The increased building heights would give suitable functionality for plant, machinery and storage needs, and the proposal would result in a more effective beneficial use. The appellant informs me there is little wider demand for or shortage of B8 premises. There would be economic benefits from several new jobs, improved productivity, and provision of units for which there is understood to be a need.
18. The proposal gains support from paragraph 81 of the Framework insofar as it seeks decisions should create conditions in which businesses can invest, expand, adapt and that significant weight should be placed on the need to support economic growth and productivity, for local business needs and wider development opportunities. As the agricultural land to be lost is Grade 4 it is not of high-quality and the area is small, so there is no conflict with Policy AS.10 in this regard.
19. Presently, the site generates approximately 70 vehicle movements per day, which the Transport Assessment (TA) suggests would be likely to increase to approximately 79. The nearest settlements are some distance away. The nearest bus services are relatively frequent but approximately 1.7km from the site, accessed via the Napton Road which is a largely unlit road with no formal footpath. Trains require access to Leamington or Rugby considerably further away. Therefore, public transport would generally not be viewed as particularly attractive or convenient options for some trips to travel to and from the site.
20. The Travel Plan (TP) sets out objectives to reduce dependency on single occupancy vehicular trips, proposes to provide information and incentives to encourage sustainable travel. The targets are to reduce single occupancy trips from a forecast of 76% to 68% by 2027, increase staff walking from a forecast of 11% to 12% and those cycling from 2% to 4%. Securing a Travel Plan and some on-site improvement of existing pedestrian and cycle routes as proposed would comply with related requirements of Policy CS.26.
21. The Napton Road and Tomlow Road have relatively low traffic levels, and a verge on both sides of the road, allowing for walkers to stand aside. Footpath SM34/1 links the two routes. There are also other footpath links to Southam and Napton and more distant links to National Cycle Network routes. Nearby roads are considered safe for cycle traffic due to generally low traffic volumes and speeds. The TP highlights improvements to right of way No SM34 as well as routes within the site, secure cycle parking from shelters.
22. While policies seek to promote and support development in sustainable locations, they do not preclude all proposals outside them, subject to meeting the relevant requirements. The Council confirmed it did not object or dispute the figures in the TA or TP or suggest they are unrealistic. Even if all targets were not realised, the TP will have some effectiveness in encouraging sustainable transport modes. Therefore, overall, vehicle movements are not likely to be much greater than the existing level, if at all.
23. Therefore, subject to the imposition of suitably worded planning conditions to secure the provision of a travel plan, the proposal has regard to minimising the need to travel, makes appropriate provision for and promotes sustainable transport, expected by CS.22 and AS.10. Moreover, paragraph 85 of the Framework recognises that sites to meet local business needs in rural areas may have to be found beyond existing settlements, and in locations not well

- served by public transport, and TP measures would improve the scope for access by non-car modes, in compliance with policy requirements.
24. In a previous appeal decision letter⁵ for the site for a new building a similar sustainability issue was considered. That decision pre-dated the Framework and current development plan. Though that Inspector was concerned about matters of highway safety, the Highway Authority and Council raises no objection to this proposal and this matter has been considered appropriately by the Road Safety Audit and TA. Therefore, it does not follow that this appeal proposal should be considered unacceptable because of such matters. The decision attracts moderate weight.
 25. As an extension to an existing employment site, it complies with that specific requirement of Policy SAP.9 of the Site Allocations Plan Revised Preferred Options Consultation (2022) (the SAP). The Council referenced the availability of alternative suitable floorspace at a site in Southam having regard to SAP.9 and Policy AS.11. However, this was based upon a localised search, that I understand was not for directly comparable units and it is not clear that it or any other premises of a comparable size are currently and readily available nearby. The appellant's written evidence⁶ and what I heard suggests there is not, and there is a local shortage of such units. It is not demonstrated there are likely to be realistic alternative options for providing the development in a manner more consistent with the overall development strategy.
 26. I have no planning obligation to provide 20% of floorspace at 75% of local market rents, nor a comprehensive financial appraisal to demonstrate this is not viable. The main parties agreed this requirement is not a specific requirement of the Framework, the policy is not at an advanced stage of preparation, and the policies are yet to be examined, so SAP.9 attracts limited weight. There is nevertheless some conflict with its requirements.
 27. Though there a number of aspects of relevant policies I was referred to that the proposal is compliant with or supported by, given the increase in scale of the proposed development, as a whole the proposal conflicts with Policies CS.15, CS.22 and AS.10 of the CS and Policy 4 of the NP. It would also not provide affordable floorspace in accordance with Policy SAP.9 of the SAP. Therefore, it is not compliant with relevant policies concerned with the provision and location of employment development, the relevant provisions of which are set out above.
 28. The Council's reason for refusal refers to Policy 10 of the NP. However, following discussion at the hearing, the matters raised are more appropriately considered under the next main issue.

Character and appearance

29. The appeal site lies within the Dunsmore & Feldon National Character Area and is within or in proximity to the Lias Village Farmlands Local Character Area (LCA), the Vale Farmlands and Clay Vale LCAs. Its surrounds are characterised by certain aspects of all the LCAs. It is within a landscape that includes undulating topography, mature trees, some tree belts and established hedgerows defining a variety of field sizes. The landscape is intersected by the canal and country lanes bound by hedgerows. The area is punctuated by

⁵ Ref. APP/J3720/A/07/2056328

⁶ Letter from Sherwill Drake Forbes dated 20 December 2021

- dwellings, farmsteads, and other collections of buildings, but I could not identify no one single overriding vernacular style.
30. Given the uncertainty of the status of part of the rear yard I do not regard it as lawfully developed for the purposes of my assessment. The appeal site includes a cluster of a variety of relatively low-level buildings of part concrete part corrugated metal of differing shades, fencing and storage and parking areas. The scale, form and arrangement might be regarded as being characteristic of its agricultural history and some other development in the area. However, I do not consider it can be regarded as locally distinctive. Given the layout, repair and appearance of the site and buildings, the signage, rather industrial disjointed utilitarian appearance, and close road position, it is of a commercial and industrial appearance, rather than agricultural.
31. I note the Council's displeasure at the removal of two oak trees prior to the consideration of this appeal, but there is nothing of substance before me to suggest this was in contravention of appropriate legislation, and I have had regard to their removal. Even were they to have been present, the appeal site benefits from relatively limited screening. A row of conifers provides some screening but is not reflective of native vegetation in the area. Overall, the site area cannot be regarded as positively reflecting local distinctiveness or positively reflecting an agricultural setting. Overall, it makes a limited negative contribution to the character and appearance of the area.
32. The visibility from some wider viewpoints I am referred to was somewhat limited, particularly given trees and hedgerows were in full leaf and are unlikely to have been cut for several months, but this is representative of only part of the year. I have had regard to the Council's views upon various viewpoints and also the Landscape & Visual Impact Assessment (LVIA) in my assessment. The site was clearly visible on the approach from the northwest, southeast and outside the appeal site from Napton Road, as well as, significant sections of Public Right of Way (PROW) SM34/1 and notably more limited vantage points of SM17/1 and SM30/1, though I did not find the site particularly discernible from SM49/2 and SM50b/2.
33. The proposal would result in a marked incursion of development into the countryside, a greater spread of buildings, of overall increased height with increased parking and servicing. There would be some localised reduction the openness of the countryside and the layout is not entirely characteristic of building clusters I saw and might be considered as somewhat suburbanised. However, some other built areas in the area did not have dissimilar parallel layouts, and it would not be untypical of converted farmstead or rural business development.
34. The spacing, layout, form and design would limit the perception of scale, height and massing and allow visibility between them to the wider countryside and be set back from the Napton Road. The building height and scale would not be out of scale with what I saw in the area. The design including brickwork, black metal and profiled metal sheeting, would result in a more coherent and well-designed appearance. Aspects of the form and the materials are reflective of agricultural buildings though I acknowledge the Council's view that darker materials might be more appropriate. A condition could be imposed for external materials to be approved together with locally appropriate bricks.

35. I do not consider the buildings would be of a dominant or discordant appearance, or harmfully at odds with the character of the area and would represent a visual improvement compared to the existing site. The proposal is also not at odds with paragraph 84 of the Framework insofar as this seeks to enable rural business growth and expansion through well-designed buildings.
36. There is no evidence the existing pond could provide adequate conveyance. The proposed SUDS would appear as a relatively shallow feature that may not necessarily be filled with water all year round. Even at times it is, it would not be a strident or harmful feature. It would be partially screened by hedgerow, and it would not be out of keeping with two other waterbodies nearby, of which one the Council has previously suggested is an attractive feature.
37. The proposals include the removal of the conifer row, the retention of the trees subject of the Council's recently served Tree Preservation Order, subject to some minor works and the provision of a considerable amount of additional landscaping, with native more characteristic species sensitive to the local landscape. Subject to the imposition of suitably worded conditions to secure this, in-time landscaping would grow to represent a marked landscape enhancement and effective screen to much of the car parking and buildings.
38. The surface, proximity of buildings, structures and their appearance do not currently make a positive contribution to the experience of walking through the site on PROW SM34/1. This proposal would secure a marked benefit to that experience from new surfacing, greater building spacing and landscaping in its setting consistent with relevant objectives of NP Policy 4. The soil mound to the north adjacent to SM34/1 appears a recent addition. It could be within the Root Protection Areas of protected trees, but its retention is not part of the landscape scheme.
39. The proposed development would result in some localised adverse landscape effects upon completion and in the short-term from some viewpoints. However, suitably worded planning conditions could secure a high-quality appearance, operational standard, landscaping and maintenance for a 15-year period. I consider that overall, in the medium term the proposed development would relate more sympathetically to the surrounding rural character and setting and have a beneficial effect upon the character and appearance of the area. This would be visible from surrounding land, the Napton Road and many available vantage points along PROWs nearby.
40. I am informed that hours of use are currently not controlled, so the proposed hours secured by condition could be of some benefit to local character. Lighting could also be controlled by means of a suitably worded planning condition. Most main doors would face in towards the yard. The vehicle movements are unlikely to be significantly greater than existing. It is inherent in a Class E (iii) use that it could be carried out in a residential area without detriment to the living conditions of neighbouring occupiers having regard to various environmental effects. The proposal would not adversely affect the existing levels of tranquillity or the character of the area, and the likely intensity would not result in harmful changes to its perceived or actual scale.
41. Therefore, I am satisfied the proposal would not harmfully affect the distinctive attributes of the LCAs in which it is within or surrounded by, and it would have beneficial effects upon the local landscape and the character and appearance of the area. Notwithstanding its scale, the scheme has had regard to the

Character Assessment, with regard to scale, layout, materials and retains local distinctiveness expected by NP Policy 4(c). The effect upon the landscape is considered satisfactory including through appropriate landscaping as expected by 4(g) that would in the medium term secure an enhancement. It would be sensitive to its surrounds as expected by paragraph 85 of the Framework and compliant with much of the design advice, and objectives for the relevant LCAs.

42. Therefore, for the reasons set out above, the proposed development would have an overall limited positive effect upon the character and appearance of the area. As a whole, in respect of this main issue, it would not conflict with Policies CS.5, CS.9, and AS.10 of the CS or Policies 4 and 10 of the NP. In combination and amongst other things, these policies seek a high-quality design that has regard to, reflects and maintains the surrounding character and distinctiveness and the effects upon the landscape, intrinsic character, beauty and tranquillity of the countryside are satisfactorily mitigated.
43. While many policy aspirations and objectives reflect other policies in the plan, the design requirements of Policy CS.15 of the CS are specifically in respect of development at existing settlements. As the proposal is not at a settlement, I have not concluded against this policy in respect of this main issue.

Other Matters

44. I have considered the concerns of interested parties in respect of the local road network and specific areas of concern such as the canal bridges and when travelling through Stockton. I have considered the conditions I witnessed, and the substantive technical evidence set out in the TP, TA and Road Safety Audit. The route through Stockton and adjoining routes had a steady flow of traffic. Cars were parked along part of the route, but despite this and the hill, the route had good horizontal visibility. The evidence suggests a limited potential for a limited increase in vehicles on the wider road network.
45. I did not note significant areas of degradation that suggest the proposal would be harmful to highway safety. Neither am I provided with substantive evidence this proposal would result in a material increase in degradation. Appropriate requirements can be secured by suitably worded planning conditions, including a delivery, service and routeing plan, necessary access standards and a travel plan. Subject to conditions, I am satisfied the site can be safely and satisfactorily accessed, and the local road network could accommodate the proposal without harmful effects upon highway safety.

Planning Balance

46. The proposed development conflicts with policies concerned with the location of new employment development, as a whole. The conflict with the policies of the adopted development plan attracts full weight and the SAP limited weight. Having regard to the nature and the magnitude of the conflicts, they attract moderate weight against the scheme.
47. The proposal would provide several temporary jobs and local expenditure during detailed design, demolition and construction works. Given the scale and nature of the project, this would be a moderate benefit. Off-set against the loss of the B8 premises, there would be an increase in small business premises that the evidence suggests are limited in supply and in demand. There would be an increase from 15, to up to 32 permanent jobs accommodated. There

would be some associated spend in the local economy, services, and facilities. There is no substantive demonstration that any effects upon local infrastructure would significantly reduce this. Such benefits would help to meet policy specific and wider CS and SAP. On-balance, the economic and social benefits attract moderate weight.

48. The proposal would, overall, result in an enhancement to the character and appearance of the area including the local landscape, and would be beneficial to the use of the PROW. The magnitude and nature of the benefits to character and appearance, attract limited weight in favour of the scheme. The provision of significantly more energy efficient buildings to result in CO2 savings of 31.5% on-site and to a BREEAM 'Good' rating, is a matter that attracts moderate weight.
49. The habitat creation within and surrounding the site would result in an overall net gain of approximately 1.29 Habitat Units and 0.14 Linear Biodiversity Units, equating to a 49.49% net gain in area habitat units and 10.43% net gain in linear habitat units. This attracts moderate weight in favour of the scheme. The final drainage design could ensure a significant net run-off betterment for the appeal site, attracting limited weight in favour of the scheme.
50. Based upon the evidence before me, compliance with policies in respect of matters such as access and parking standards, certain aspects of flood risk, addressing contamination matters, vehicle routeing, and the living conditions of neighbouring occupiers, would be neutral matters in the planning balance.
51. Overall, I find that the benefits of the proposed development outweigh the adverse effects and policy conflicts. Therefore, for the reasons given the appeal should be allowed.

Conditions

52. I have considered the suggested conditions in the context of the advice in the Framework and Planning Practice Guidance. As well as the standard condition for commencement, for certainty a condition requiring the development is carried out in accordance with the approved plans is necessary. As they are set out upon specified plans in condition 2, a ground levels condition is not necessary.
53. A pre-commencement condition for a Construction Environmental Management Plan is necessary to ensure that protected species would not be harmed. A pre-commencement condition for a Construction Management Plan is necessary to ensure highway safety during construction. A pre-commencement condition is necessary for a revised tree protection plan to protect existing trees at the site. It is not necessary for this to include i) – vii) in the draft condition, as they can be secured through the approval of the scheme. A pre-commencement condition for a detailed surface water drainage scheme, with the omission of infiltration testing is necessary to prevent an increased risk of flooding and protect water quality. A condition to secure a scheme for its future maintenance is also necessary for the same reason.
54. In the interests of human health and preventing pollution of the environment, a pre-commencement condition is necessary to secure appropriate schemes to address land contamination that may be present. I have updated those previously suggested to reflect the requirements of updated guidance and

- practice. To ensure suitable foul drainage is provided to prevent the risk of flooding or pollution, conditions are necessary to provide and implement a foul drainage scheme and to undertake the development in accordance with the submitted Flood Risk Assessment.
55. In the interests of highway safety and to ensure satisfactory access arrangements conditions are necessary to secure a delivery, routing and servicing plan, the construction of the access in accordance with the submitted details, the maintenance of the effective capacity of highway drainage infrastructure, and the provision of the specified visibility splay. To ensure the safe and satisfactory operation of the site a condition is necessary to secure the provision of unit parking and loading/unloading areas prior to their occupation. In the interests of securing a policy compliant development and ensuring adequate provision is made for sustainable transport, a condition securing the implementation of a travel plan is necessary.
56. To ensure there is a Biodiversity Net Gain in accordance with those set out in the application, conditions requiring the implementation of the Ecological Impact Assessment and an Ecological Management Plan are necessary. In the interests of the character and appearance of the area, to secure an overall enhancement, conditions are necessary to require the prior approval of external materials for the new buildings and hard surfaces, and details of external lighting. A condition for a detailed scheme of hard and soft landscaping and a maintenance period of 15 years is necessary in the interests of preserving and enhancing the character and appearance of the area.
57. Given the acceptability of the proposed development is dependent upon my findings on the benefits including in respect of its effect upon the character and appearance, I am satisfied that there is clear justification for the removal of permitted development rights for gates, fences and walls along the site boundaries under Part 2 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) (Order) 2015 (the GPDO). For similar reasons, I am satisfied that there is clear justification for the removal of permitted development rights for extensions or alterations to the premises under Part 7 of the GPDO. I have included Class A rights to reflect the use of development permitted as without this I have no certainty the condition would be sufficiently precise or enforceable for the proposal.
58. In the interests of preserving and enhancing the character of the countryside and ensuring satisfactory living conditions for neighbouring occupiers, conditions are necessary to require the site operates in accordance with the proposed hours, specified noise controls, and without prior planning permission is only operated for Use Class E(g)(iii) of the Town and Country Planning (Use Classes) Order 2020. To comply with policies of the development plan and secure the necessary energy efficiency measures a condition is necessary.
59. In accordance with the findings of the desk-based assessment, the main parties agreed a condition for a scheme of archaeological works is not necessary. Informative notes do not carry any legal weight and cannot be used in place of a condition. Although the Council initially suggested a number of these, from the discussion at the hearing the conditions relate to matters addressed under other legislative regimes such as the Highways Act 1980, Traffic Management Act 2004, Transfer of Sewer Regulations 2011, the Land

Drainage Consent regime, the Building Regulations and Environmental Permit Regulations 2016 and fall within the remit of various other regulatory bodies.

60. There is also some guidance upon the requirements of matters such as Sustainable Urban Drainage Systems. Based upon the evidence before me, I am satisfied the planning conditions I have imposed do not prevent compliance with the other legislative regimes and guidance. Moreover, the appellant is an informed party that is aware of their duty other legislative codes and is aware of other technical guidance as appropriate in implementing this permission.

Conclusion

61. The proposed development would result in a conflict with the development plan read as a whole. However, the benefits of the development and the other material considerations set out above, outweigh the conflict with the development plan. Therefore, for the reasons given, the appeal is allowed and planning permission is granted.

Dan Szymanski

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) Unless otherwise required by conditions attached to this permission, the development hereby permitted shall be carried out in accordance with the plans/drawings numbered:
 - OB/3.318/Location Plan Rev 3;
 - RF-21-1539 - Sheet 1 - Rev. A;
 - RF-21-1539 - Sheet 2 - Rev. B;
 - RF-21-1539 - Sheet 3 - Rev. A
 - RF-21-1539 - Sheet 4 - Rev. A;
 - RF-21-1539 - Sheet 5 - Rev. A;
 - RF-21-1539 - Sheet 6 - Rev. A;
 - Landscape Masterplan 8809L.LM.003 Rev. F.
- 3) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP), to include details of the measures to be taken to ensure that demolition and construction works do not adversely affect protected or notable species and retained habitats, shall be submitted to, and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in compliance with the approved CEMP.
- 4) Notwithstanding the provisions of the submitted Arboricultural Impact Assessment, no demolition, site clearance or building operations shall commence or equipment, machinery or materials brought onto site, until a scheme for the protection of all existing trees and hedges has been submitted to and approved in writing by the Local Planning Authority. The protection measures within the scheme shall include:
 - (a) a Tree Protection Plan and details of working methods and activities, having regard to the Arboricultural Method Statement in accordance BS5837:2012 Trees in relation to design, demolition and construction – Recommendations;
 - (b) details of the erection of protective fencing in accordance with British Standard BS5837:2012; and,
 - (c) fencing to be detailed and installed to the extent of the tree Root Protection Area as defined in BS5837:2012.

The development hereby permitted shall be implemented in compliance with the approved scheme, and protection measures shall be kept in place until all parts of the development have been constructed and all equipment, machinery and surplus materials have been removed from the site.

- 5) Prior to the commencement of the development a Construction Management Plan (CMP) shall be submitted to and approved by the Local Planning Authority. The CMP shall include a HGV routeing strategy, details to prevent mud and debris on the public highway, the identification of suitable areas for the parking of contractors and visitors, and the unloading and storage of materials. The development hereby permitted shall be implemented in compliance with the approved CMP.
- 6) No development other than that required to be carried out as part of an approved scheme of remediation shall commence until criteria (a) to (d) of this condition have been complied with. If unexpected contamination is found after development has begun, development shall be halted on that part of the site affected by the unexpected contamination to the extent specified in writing by the Local Planning Authority until condition (d) below has been complied with in relation to that contamination.

(a) An investigation and risk assessment shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme, the investigation and risk assessment to be undertaken by competent persons, shall have been previously submitted to and approved in writing by the Local Planning Authority. A written report of the findings shall be produced, to be submitted to and in writing by the Local Planning authority. The report of the findings shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to human health, existing or proposed property and buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and
- (iii) an appraisal of remedial options, and proposal of the preferred option(s) to be conducted in accordance with UK Government and the Environment Agency's Land Contamination Risk Management (LCRM) 8th October 2020.

(b) A remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be prepared and subject to approval in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) The approved remediation scheme shall be carried out prior to the commencement of development other than that required to carry out remediation. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the scheme, a verification report that demonstrates the effectiveness of the remediation carried out shall be prepared and subject to approval in writing by the Local Planning Authority.

(d) In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of condition (a) and where remediation is necessary a scheme shall be prepared in accordance with the requirements of condition (b) which shall be subject to approval in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared, which shall be subject to approval in writing by the Local Planning Authority in accordance with condition (c).

- 7) No development shall take place until a detailed surface water drainage scheme, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed in compliance with the approved details before it is occupied. The scheme shall include:
 - Demonstration the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753 through the submission of plans and cross sections of all SuDS features.
 - Limitation of the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm to the total runoff rate of 2.7l/s.
 - Demonstration the provisions of surface water run-off attenuation storage will be provided in accordance with the requirements specified in 'Science Report SC030219 Rainfall Runoff Management for Developments'.
 - A detailed scheme design (plans, network details and calculations) of the surface water drainage scheme including details of all attenuation and outfall arrangements. Calculations shall demonstrate the performance of the designed system for the critical storm duration for at least the 1 in 2 year, 1 in 30 year and 1 in 100 year plus climate change return periods. The calculations shall be supported by a plan of the drainage network with all manholes and pipes labelled accordingly.
 - Provision of plans and details showing the allowance for exceedance flow and overland flow routeing. Water must not be directed towards properties or flow onto third party land. Overland flow routeing shall look to reduce the impact of an exceedance event.
- 8) The development hereby permitted shall not be occupied until a detailed maintenance plan, in accordance with CIRIA C753, has been approved in writing by the Local Planning Authority demonstrating details of how surface water systems shall be implemented, maintained, and managed for the lifetime of the development. The name of the party responsible, including contact name and details, shall be provided to the Local Planning Authority within the maintenance plan. The development shall be maintained in accordance with the approved scheme thereafter.

- 9) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment by EAS Ref. 2524/2020 Rev E dated September 2021 and the mitigation measures detailed within it.
- 10) Prior to the development hereby permitted proceeding above slab level a scheme for foul drainage shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 11) Prior to the first occupation of the development hereby permitted, a Delivery, Routeing and Servicing Plan (DRSP) shall have been submitted to and approved in writing by the Local Planning Authority. The DRSP shall include measures to manage the weight and routeing of heavy goods vehicles accessing and leaving the site with reference to the approved Transport Assessment and directional signage at the site ingress and egress. The development hereby permitted shall thereafter be implemented and operated in compliance with the approved DRSP.
- 12) Prior to the development hereby permitted proceeding above slab level, an Ecological Management Plan (EMP), to include details of habitat features to be created, provided and enhanced, and their long-term management, shall have been submitted to and approved in writing by the Local Planning Authority. The EMP shall provide for Biodiversity Net Gains of no lesser than the percentage gains set out in the Biodiversity Metric submitted with this application. The EMP shall be implemented and maintained thereafter in compliance with the approved details.
- 13) Except where modified by the requirements EMP above, the development hereby permitted shall be carried out strictly in accordance with the recommendations and mitigation measures in the Ecological Impact Assessment by CSA Environmental report no CSA/4176/03 (dated September 2021).
- 14) Prior to the development hereby permitted proceeding above slab level, notwithstanding any indication of external materials set out in the application, a schedule or samples of the external materials and finishes shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved materials.
- 15) Prior to the development hereby permitted proceeding above slab level, notwithstanding any indication of materials set out in the application, a schedule or samples of all hard-surfacing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 16) Notwithstanding the submitted details, prior to first use of any part of the development hereby permitted, a landscaping scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be based upon the details set out on plan/drawing Ref. 8809L.LM.003 Rev F, informed by the Warwickshire Landscape Guidance to reinforce landscape character, using native species. Amongst other things the scheme shall include:

- (a) scaled planting plans to include all landscaping to take place within the red line set out OB/3.318/Location Plan Rev 3, with schedules setting out the location, number, size, species, density, form and size of proposed tree, hedge and shrub planting and seeding;
- (b) the method and specifications for operations associated with planting establishment, protection, management, detailed maintenance, and provision to be made for the timely replacement (as necessary) of any failed or removed retained and new trees, hedges and shrub planting;
- (c) written specifications including cultivation and other operations associated with tree, plant and grass establishment;
- (d) existing landscape features such as trees, hedges, shrubs and ponds which are to be retained and/or removed;
- (e) existing and proposed finished land levels;
- (f) the means of accommodating any change in level (e.g., retaining walls, steps, railings, walls, gates or other supporting structures, ramps);
- (g) the location of materials to be used for hard surfacing agreed under condition 16;
- (h) the position, design, materials, means of construction of all site enclosures and boundary treatments;
- (i) car parking layout and any other vehicular and pedestrian access and circulation areas illustrating SUDS and surface water management features;
- (j) minor artefacts and structures (e.g. street furniture, play equipment, refuse areas, substations and other storage units); and,
- (l) a timetable for the implementation of and undertaking maintenance of the landscaping scheme.

The approved landscaping scheme shall be implemented as approved and thereafter shall be maintained, managed, and replacement works undertaken in accordance with the approved details for a period of 15 years from first planting.

- 17) The proposed vehicular accesses to the site shall not be used unless bell mouths and an internal access road have been laid out and constructed within the public highway in accordance with drawing number RF-21-1539 - Sheet 1 - Rev. A.
- 18) No unit hereby permitted shall be occupied until space has been provided within the site for the parking and loading/unloading of vehicles associated with that unit in accordance with details to be approved in writing by the Local Planning Authority.
- 19) The accesses to the site shall not be constructed in such a manner as to reduce the effective capacity of any drain or ditch within the limits of the public highway.
- 20) The development shall not be occupied until visibility splays have been provided to the vehicular egress from the site with an 'x' distance of 2.4 metres and 'y' distances of 160 metres to the near edge of the public

highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway. The splays shall be maintained as such thereafter.

- 21) Notwithstanding the approved plans, no floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated, except in accordance with a scheme that has been first submitted to and approved in writing by the Local Planning Authority. The lighting shall be retained as approved thereafter.

- 22) The development hereby permitted shall only operate between the hours of:

- 07:30hrs – 18:00hrs Mondays – Fridays; and,
- 07:30hrs – 13:00hrs on Saturdays.

The development shall not operate on Sundays or Public Holidays.

- 23) Noise from operations within the site shall not exceed British Standard rating levels of 45dB (LA_r1hour) at any time when measured outside the boundary of the site.

- 24) Notwithstanding the provisions of Class A of Part 2, Schedule, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking, re-enacting or modifying that Order), no gate, fence or wall shall be erected, constructed or placed within the site or along the boundaries of the site without the express grant of planning permission.

- 25) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification), no erection, construction or carrying out of any extensions or alterations to the premises under or in accordance with Part 7 Class A (Commercial, business or service) or Class H (industrial and warehouse) of Schedule 2 shall be undertaken without the express grant of planning permission.

- 26) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), (or any Order revoking and re-enacting that Order with or without modification), the development hereby permitted shall be used for Use Class E(g)(iii), and for no other purposes (including any other purposes in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 2020 (as amended) or any other provision(s) equivalent to that Class / those Classes in any Statutory Instrument revoking and/or re-enacting that Order with or without modification.

- 27) The development hereby approved shall be implemented in accordance with standards specified in the approved Energy and Sustainability Statement (XC02, Sept 2021). A verification report to confirm the achievement of these standards with the appropriate evidence shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the buildings hereby permitted.

- 28) Prior to the first occupation of the development hereby permitted a travel plan statement shall have been submitted to and approved in writing by the Local Planning Authority. The travel plan statement shall be consistent with the EAS Travel Plan September 2021 document, and shall include details of the following:
1. The name and contact details of the nominated travel plan champion;
 2. Details of the development including expected employee numbers;
 3. Details of support for the delivery of the site-wide travel plan and promotional activity contained in an action plan;
 4. Detailed methodology for annual monitoring and provision of modal shift split data to the Council; and,
 5. Commitment to ongoing liaison with the Council's travel plan co-ordinator.

The travel plan statement shall be implemented as approved and maintained thereafter in full compliance with the approved details.

End of Schedule.

APPEAREANCES

FOR THE APPELLANT:

Mr Antony Barrett, Group Chairman of North Common Property Holdings Ltd;

Mr Chris Stoneman BA (Hons) ACA, Managing Director & Finance Director of North Common Property Holdings Ltd;

Mr James Paynter BSc (Hons) MRICS, Director of Sherwill Drake Forbes;

Mr Nick Denman MRICS FAAV, Director of Sherwill Drake Forbes;

Mr Alastair Macquire BA (Hons) Dip LA CMLI, Director of ES Landscape Planning;

FOR THE COUNCIL:

Mrs Charlotte Dicks, Senior Planner of Stratford-on-Avon District Council;

Mr Richard Greenway Dip.LA. M.Arbor.A. CMLI, Forestry & Landscape Officer of Stratford-on-Avon District Council;

Miss Louisa Slator, Policy Planner of Stratford-on-Avon District Council;

SUBMITTED DOCUMENTS

CF-1: Application site plan for Application Ref. 08/02875/FUL.