



Appeal Decision

Site visit made on 20 February 2024

by H Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 February 2024

Appeal Ref: APP/Y3940/C/22/3308665

Land at Nursery Farm, Stock Lane, Landford, Salisbury, Wiltshire SP5 2ER

- The appeal is made under section 174 of the Town and Country Planning Act 1990, as amended (the Act).
 - The appeal is made by Schepens International Limited against an enforcement notice issued by Wiltshire Council.
 - The notice was issued on 5 September 2022.
 - The breach of planning control as alleged in the notice is, without planning permission, the material change of use of the Land from agriculture and lawful storage use of a barn identified by the letter 'x' on the attached plan up to 150 sq metres (pursuant to 20/05200/PREAPP) to a mixed use of agriculture and lawful storage of up to 150 sq metres of the barn identified by the letter 'x' (pursuant to 20/05200/PREAPP) as well as the siting of container units for storage purposes.
 - The requirements of the notice are to:
 - i) Cease the use of the Land for the siting of container units for storage purposes.
 - ii) Remove the container units and their contents from the Land in their entirety.
 - The period for compliance with the requirements is 4 months.
 - The appeal is proceeding on the ground set out in section 174(2)(a) of the Act.
 - Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990, as amended.

Preliminary Matters

2. The notice and appeal statements refer to section 9 (promoting sustainable transport) and paragraph 174 (decisions should contribute to and enhance the natural and local environment) of the National Planning Policy Framework (the Framework). The Framework was updated in late 2023. The content of the section and paragraph referred to is unchanged, apart from the paragraph numbering (paragraph 174 is now paragraph 180) so the update does not impact on my assessment of this appeal.
3. Appeal submissions state that the site was previously in use as a poultry farm but this use ceased and the site was subsequently purchased by the appellant, Schepens, in October 2020. Schepens is a removal and storage business.
4. Application reference 20/05200/PREAPP related to use of part of an agricultural building (former poultry farm use) for class B8 storage. I have not been provided with details of this but there is no dispute between the Council and the appellant that 150sqm of the building marked 'x' can be used for storage.

5. In March 2021, under application reference 21/01062/PNCOU, the Council issued a decision for the site, that prior approval was not required for a change of use of an area of an agricultural building and land outside of the building, to use as storage, in accordance with Class R of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). That Council decision was subject to a judicial review¹ and the decision was quashed. I have had regard to that judgement in so far as it has relevance to the matters for consideration under this appeal. However, application reference 21/01062/PNCOU was for prior approval, with the focus on whether the proposed development met the relevant requirements of the GPDO. This appeal seeks planning permission, through the application deemed to have been made under the appeal on ground (a). Therefore, the focus of this appeal is the planning merits of the development, having regard to the provisions of the development plan and any other material considerations.

The appeal on ground (a) and the deemed planning application

6. The appeal on ground (a) is that in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted. The terms of the deemed planning application are derived from the allegation. Hence, permission is sought for the material change of use of the Land from agriculture and lawful storage use of a barn identified by the letter 'x' on the attached plan up to 150 sq metres (pursuant to 20/05200/PREAPP) to a mixed use of agriculture and lawful storage of up to 150 sq metres of the barn identified by the letter 'x' (pursuant to 20/05200/PREAPP) as well as the siting of container units for storage purposes.

Main Issues

7. The main issues are:
- Whether the site is a suitable location for the development;
 - The effect of the development on the safety of vehicular traffic and other road users, including pedestrians and cyclists, on the surrounding roads; and
 - The effect of the development on the character and appearance of the site and the surrounding area.

Reasons – Location

8. The settlement strategy for the area is set out in the Wiltshire Core Strategy (adopted January 2015) (CS). Core Policies 1 and 2 of the CS, along with 23, seek to secure sustainable development, directing most development to the main settlements and limiting development in villages and the countryside. The site is remote from any settlement of a significant size and the surrounding area has limited facilities and services, as well as lacking public transport. This means that any workers would be highly likely to be reliant on private vehicles to access the site, which is the least sustainable option.
9. Core Policy 34 of the CS considers additional employment land and again focuses on provision within the main settlements. It does allow for development that is for new and existing rural based businesses within or adjacent to villages, subject to criteria.

¹ R (Spedding) v Wiltshire Council [2022], EWHC 347(Admin).

10. The closest village is Landford Wood which is a small village that does not have a settlement boundary defined by the CS. From my site visit and the details provided with the appeal, it is clear that the village consists of a distinct group of dwellings, clustered around the west to east branch of Stock Lane. To the south and east of the village are open fields and it is several hundred metres across these fields from the edge of the village to the appeal site. There are a small number of dwellings closer to the appeal site, but these too are clearly separated from the village by open countryside. On this basis, I consider the site to be in an isolated location within the open countryside. It is not part of, or adjacent to, a small village, so the development cannot benefit from the exception set out under Core Policy 34.
11. Even if I had found that the site was in or adjacent to a small village, specified criteria also need to be met. These include being supported by evidence that the development is required to benefit the local economic and social needs; and that the development is supported by adequate infrastructure. The appellant states that the business employs 20 local people but I have been provided with no evidence to support this. I also have no evidence to specify how many of those people, and what proportion of the economic activity of the business, relates specifically to the matters covered by this appeal, rather than just the business as a whole. The question of infrastructure is considered in a subsequent section and found to be inadequate. Consequently, the development fails to meet specified criteria for Core Policy 34.
12. I conclude that the site is located within open countryside in an unsustainable location. Consequently, the site is not a suitable location for the development and is contrary to Core Policies 1, 2, 23 and 34 of the CS.

Reasons – Highway safety

13. The site is accessed via a private lane that links to Stock Lane and then to the A36. As part of the outcome of the judicial review (see paragraph 5 above), the judge concluded that the Council had not correctly considered whether the previous use of the site as a poultry farm was a realistic fallback. Hence the Council had erred in law by taking into account a consideration which was not material, namely the number of traffic movements it was claimed would be experienced if the site resumed operation as a poultry farm.
14. In assessing any potential fallback, I have taken the approach advocated in Gambone² and the previous judicial review³ related to this site. Although the site was previously used as a poultry farm, the use had ceased. In a document responding to the Council statement the appellant claims that they would 'return the site to agricultural use should the current appeal fail'. This is not backed up by any evidence to support the claim. I have been presented with no substantive information which would lead me to conclude that resumption of the poultry farm use of the site is greater than a theoretical possibility. Therefore, on the evidence before me, I do not consider it to be a valid fallback option. Consequently, I have considered the impact of all vehicle movements generated by the development subject to this appeal.

² Gambone v SSCLG [20140, EWHC 952 (Admin).

³ R (Spedding) v Wiltshire Council [2022], EWHC 347(Admin).

15. Information provided by the appellant states that their vehicle fleet comprises seven Heavy Goods Vehicles (HGVs) and one van. The vast majority of vehicle movements related to siting the storage units on the site is undertaken by three of the HGVs. The appellant says there is an average of between 0.42 and 1.5 vehicle movements per day associated with the site. A log of movements has been provided but it is unclear how this was generated, or by who, and using what methodology. Third party representations from neighbours question the accuracy of the numbers submitted by the appellant. The Council note that previous submissions from the appellant stated the use would result in 5 to 6 vehicle movements a day, with the majority being by HGV. Despite this lack of certainty on the actual number of vehicle movements per day, I need to consider the impact of any regular movements to and from the site by HGVs of a size capable of transporting the container units.
16. The first 'arm' of Stock Lane runs from west to east, from the A36, through the village of Langford Wood. Towards the east end of this, a private lane runs south from Stock Lane to the site. A second 'arm' of Stock Lane runs south from the middle of the west to east arm, and loops back around to join the A36 at a separate junction. The Council has raised no issues regarding either junction with the A36 and both seem to provide adequate visibility. The west to east arm of Stock Lane provides the shortest route from the main road to the site and the appellant states it is the route used by their HGVs.
17. Stock Lane is a maintained highway which is narrow, single track, and lacks any formal passing places. There is no footway or lighting. During my site visit it was apparent that for most of the length of both arms of Stock Lane, even for 2 cars to pass, it was necessary for one to drive onto the grass verge or into a field entrance or private driveway. This lack of passing places would be even more of an issue for HGVs. Regular use of Stock Lane by HGVs delivering and removing container units from the site, would be likely to result in vehicles needing to reverse and undertake other manoeuvres. In addition to the inconvenience for residents of the village, this would result in highway safety issues for other vehicles, as well as for pedestrians or cyclists sharing the road. Especially on the west to east arm of Stock Lane, there was evidence of significant vehicle caused erosion of grass verges and the bottom of hedgerow banks, with mud brought onto the road surface as a result. Regular use of this route by HGVs would inevitably exacerbate this issue resulting in the potential for dangerous levels of mud on the road.
18. The private lane which links up to the site is even narrower than Stock Lane and the surface is poorly maintained. It has no separate footway and no lighting. Regardless of ownership and access rights, this private lane is the only route to the site as well as to the dwellings near the site. An extended stretch of this private lane has no means of 2 vehicles passing, even cars, let alone an HGV. This means that when vehicles meet, which they inevitably will, one would need to reverse for some distance. It seems likely that the only opportunity for an HGV to allow another vehicle to pass would be at either end of this private lane. The condition of the lane surface is likely to limit vehicle speed. However, dense hedgerow runs close to the road with only a narrow grass verge, meaning it would be very difficult for pedestrians or cyclists to get safely out of the way of a passing HGV, even without the presence of another vehicle. This is a particular issue as this private lane is also the route of a designated Public Right of Way (PROW).

19. The development subject to the appeal requires regular access to the site by HGVs. The dimensions and layout of the surrounding roads are not suitable to accommodate such traffic. Hence, the development increases the risk of conflict between vehicles, and between vehicles and pedestrians and cyclists.
20. I conclude that the development has an unacceptable impact on the safety of vehicular traffic and other road users, including pedestrians and cyclists, on the surrounding roads. Consequently, it does not comply with Core Policies 60, 61 and 62 of the CS. Together, amongst other things, these policies seek to ensure that new development helps reduce the need to travel, particularly by private motor vehicle; encourages the sustainable, safe and efficient movement of people and goods; and considers the needs of all transport users, including pedestrians and cyclists. In addition, paragraph 115 of the Framework (2023) supports the refusal of development on highways grounds if there would be an unacceptable impact on highway safety, as is the case here.

Reasons – Character and appearance

21. The site is in the countryside, within a special landscape area (SLA) and relatively close to, but outside of the New Forest National Park. The surrounding area is rural in character, with an irregular field pattern, areas of woodland and dispersed dwellings and farms. The site contains 3 large former poultry house buildings, 2 next to each other at the western end and 1 at the eastern end, next to a concrete base from a previously removed 4th building. There is also a building near the site entrance and two in the centre of the site, all of which are modest in size. The site slopes downwards from west to east and is surrounded by mature vegetation along most of its boundary. The container units subject to this notice have been sited on the concrete base, with each raised off the floor on 4 legs. A Planning Contravention Notice completed and returned by the appellant, dated June 2022 said that no more than 6 container units were on site at any one time, with the position changed weekly. Council photographs from March 2022 show 6 container units sited on the concrete base, which was the same number as during my site visit.
22. The mature boundary vegetation, site topography, and existing buildings provide a significant amount of screening. This means that views of the container units from outside of the site are limited, mainly to glimpsed views from the nearby PROWs. The 3 existing buildings are large and prominent elements within the site and the immediate landscape. While they were originally for agricultural purposes, their scale is significantly larger than most of the agricultural buildings which are common features in a rural landscape.
23. The container units are sited in close proximity to one of the large buildings. Within this very specific context, the presence of 6 container units does not have a significant visual impact on the site or the surrounding area, including the SLA. This, combined with the separation distance, also means the development does not affect the National Park and its special qualities.
24. I conclude that the development does not have a significant impact on the character and appearance of the site and the surrounding area. Consequently, it complies with Core Policies 51 and 57 of the CS. Together, amongst other things, these policies seek to ensure that development protects landscape character and is complementary to the locality. Furthermore, it accords with paragraph 180 of the Framework (2023) which seeks to ensure that planning decisions protect valued landscapes.

Conclusion on ground (a) and the deemed planning application

25. I conclude that the development conflicts with the development plan as a whole and there are no material considerations which indicate that the decision should be taken other than in accordance with the development plan. Therefore, the appeal on ground (a) fails and planning permission is not granted.

Other Matters

26. I note the appellant statement that no more than 150sqm of the internal area of the building has been used for B8 storage. This matter does not form part of the appeal.

Conclusion

27. For the reasons given, I conclude that the appeal on ground (a) does not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the Act.

H Davies

INSPECTOR