



Appeal Decision

Site visit made on 08 January 2024

by N Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2024

Appeal Ref: APP/E0345/W/22/3313424

Scours Lane, Tilehurst, Reading RG30 6AX

- 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 Cube Real Estate Ltd against the decision of Reading Borough Council.
 - The application Ref is 220637.
 - The development proposed is drive-through restaurant (Use Class E (a,b)) and sui generis hot food take away, car parking, enhanced landscaping and access arrangements
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Decision

1. The appeal is allowed and planning permission is granted for a drive-through restaurant (Use Class E (a,b)) and sui generis hot food take away, car parking, enhanced landscaping and access arrangements at Scours Lane, Tilehurst, Reading RG30 6AX in accordance with the terms of the application, Ref 220637, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal. As a result, I consider that there is no requirement for me to seek further submissions and I am satisfied that no party's interests have been prejudiced by my taking this approach.
3. A draft Unilateral Undertaking (UU) was submitted with the appeal. The UU sets out the proposed off-site ecological mitigation and wildlife enhancements. I shall return to the UU later.

Main Issue

4. The main issue is the effect of the proposal on the function of the green link and the character and appearance of the area including whether the proposal would deliver adequate landscape mitigation and wildlife enhancements.

Reasons

5. The appeal site comprises an undeveloped, grassed parcel of land. The site is sloping in nature and is located to the south of industrial and commercial units, from which it is elevated. To the south is a busy roundabout at the junction of Oxford Road, Wigmore Lane and Norcot Road. The site is clearly visible from a number of vantagepoints along Oxford Road, Wigmore Lane and Scours Lane.
6. The site comprises undesignated open space and contains a number of mature trees. The open, grassed nature of the site makes a positive contribution to the

character and appearance of the surrounding area. Whilst the site may have little recreational value, nonetheless, given its prominent location, visibility and open nature it has a high visual amenity value. The site is located at the junction of Green Links which run along Oxford Road, Wigmore Lane and Scours Lane. These provide visual relief amongst the road network, separating the pavements from the carriageway and built form, and provide space for street trees.

7. To facilitate the proposal, 3 trees would be removed, one of which is protected by a Tree Preservation Order. Compensatory planting is proposed, including 38 trees to be planted on the appeal site. The appellant has also expressed a willingness to provide further planting and wildlife enhancements outside of the appeal site, the details of which are set out in the draft UU.
8. Whilst noting the appellant's willingness to provide off-site planting and biodiversity enhancements, and their intention to enter into a landscape contract to implement the proposed landscape and enhancement scheme, there is no completed planning obligation before me. Therefore, there is no mechanism to ensure the delivery of off-site planting and biodiversity enhancements. I have therefore considered the appeal on the basis of the on-site proposals and enhancements only.
9. Policy EN12 of the Reading Borough Local Plan (2019) (LP) sets out that the Green Network shall be maintained, protected, consolidated, extended and enhanced. The supporting text to this policy states that the interconnectedness of the Green Network is critical, performing an important function for biodiversity by providing the desired connectivity for wildlife between ecologically important areas. The supporting text goes on to state that permission will not be granted for development that fragments the overall network.
10. The proposal would introduce a standalone building with associated car parking on an area of undesignated open space. The appellant's Arboricultural Impact Assessment (AIA) states that of the 3 trees to be removed, one is in a poor condition, of limited value and is unsuitable for retention. The AIA also states that, subject to the incorporation of tree protection measures, there should be no long-term adverse impact upon retained trees.
11. At my site visit I observed that the existing trees vary in age, quality and canopy spread. The mature trees which would be removed are located towards the north of the site within a small cluster of trees. This group of trees is highly visible from the surrounding area and has high amenity value, making a positive contribution to the character and appearance of the area.
12. Nonetheless, considerable on-site replacement planting of large canopy trees is proposed. Once matured this would improve the level of tree cover on the site. The proposed replacement planting would be highly visible from the surrounding area, including from the highway network, and there would be an overall net gain in tree cover on parts of the site. Given the quantum of proposed replacement planting and its visibility from the surrounding area, I consider that this would adequately compensate for the trees to be lost.
13. The appellant states that the appeal site offers a limited range of grass/plant species. Proposed on-site landscaping would incorporate bat and bird boxes, indigenous shrub and wildflower planting, the provision of log piles and hedgehog hotels. These measures would result in benefits to on-site biodiversity and wildlife and an enhancement of the natural environment.

14. The appeal proposal would result in an encroachment of built form at a key junction of Green Links. Whilst there would be a reduction in its width, nonetheless the Green Link and the connectivity it provides to other parts of the Green Network would remain, and thus the proposal would not result in its fragmentation. Furthermore, significant planting and wildlife enhancements would enhance the biodiversity value and visual amenity of the appeal site. These measures would mitigate any harm arising from the reduction in the width of the Green Link.
15. The proposal would introduce development within a prominently sited area of open space. However, significant levels of on-site planting would ensure that the visual buffer to the adjacent highway would be retained. Therefore, the softening function and visual relief provided by the site would not be diminished. Given this, the loss of open space would not be harmful to the visual qualities of the site or the character and appearance of the area.
16. In light of the above, the appeal proposal would not result in a fragmentation of the Green Link, harm to the integrity and function of the wider Green Network or harm to the character and appearance of the area. Furthermore, proposed on-site planting would enhance the visual amenities of the site and the natural environment. Thus, I find no conflict with those aims of LP Policies CC7, CC9, EN8, EN12 or EN14 or the Supplementary Planning Document Planning Obligations under Section 106 (2015). Collectively these policies seek to ensure that proposals do not fragment the Green Network and that development maintains and enhances the character of the area in which it is located and does not result in the loss of, or jeopardise use and enjoyment of, undesignated open space. I also find no conflict with the Framework, which supports the enhancement of the natural and local environment by, amongst other measures, establishing coherent ecological networks.

Other Matters

17. The Council state that the site lies partly in flood zones 2 and 3 on the basis of data on their GIS system. The Council has not explained the source of this data or its age. Conversely, the appellant requested the most up to date flood modelling data from the Environment Agency (EA) which formed the basis of the submitted Flood Risk Assessment (FRA). This data shows that a 0.1% probability flooding event doesn't reach the appeal site. Thus, it is stated, the site is completely outside of all flood extents and is located in flood zone 1.
18. The EA have commented that the flood modelling used by the appellant is not the most up to date modelling. Nonetheless, they also confirm that, as the modelled flood water levels from the most up to date (2019) model run are lower than the ones the appellant used in their FRA (2018 model run), they expect that flood risk has been adequately accounted for at this location.
19. The appellant's FRA sets out that the main source of flooding for the site comes from the river Thames to the north, which is separated from the appeal site and nearby industrial units by a railway embankment. Based on my observations that the appeal site is located on land which is elevated above the tunnel underneath the railway embankment on land which rises away from the modelled extent of a 0.1% flooding event, the submitted FRA appears to draw reasonable conclusions based on what I have seen on site. Therefore, the risk of flooding has been properly considered and consequently there is no requirement for a sequential test to be satisfied.

20. I have taken into consideration concerns by third parties about the potential for additional traffic in the local area and the resultant effect on the living conditions of the occupiers of nearby residential properties. I acknowledge that there would be an increase in activity on and around the site as a result of the use. Nonetheless, the increase in vehicle movements would be limited in extent. Furthermore, the noise associated with vehicle movements and deliveries and the use of the site would be limited. The Noise Impact Assessment indicates that no harm would arise to the living conditions of the occupiers of nearby properties through noise associated with the proposal including any associated plant equipment.
21. Comments regarding odours and an increase in rodent problems are noted. Based on the information before me, cooking odours would be able to be kept to acceptable levels by ventilation and extraction equipment. The proposal would provide litter bins on the site and there is no compelling evidence before me that the development would result in an increase in rodents in and around the site.
22. The Courts have taken the view that planning is concerned with land use in the public interest. Consequently, the protection of purely private interests could not be a material consideration. The regulation of competition with a nearby food van is therefore beyond the remit of this appeal. Additionally, there is no particular evidence that the proposal would fail to accord with the Council's aspirations for a healthier living standard for residents.
23. I acknowledge comments made regarding changes to the property market in the past 12 months. However, there is no particular evidence before me indicating that the submitted Retail Sequential Test Assessment is inaccurate or out of date.

Conditions

24. I have had regard to the conditions suggested by the Council in their statement of case, on which the appellant has had the opportunity to comment. Where necessary I have made revisions to some of the conditions put to me to ensure that they meet the tests in the Framework and PPG, without altering their fundamental aims.
25. Planning permission is granted subject to the standard three year time limit condition for implementation. In addition, it is necessary to specify the approved plans and documents in the interest of certainty. I have omitted the submitted plans covering works which fall outside of the appeal site. In the interest of the character and appearance of the area, conditions are necessary to control the external materials of the development and proposed hard and soft landscaping.
26. In the interests of highway safety, conditions are required in order to secure the implementation of the access and car parking provision. A condition relating to the provision of bin storage facilities is necessary to ensure the provision of this facility. There is also a need for conditions relating to the achievement of BREEAM 'very good' rating in the interests of achieving energy efficiency.
27. In the interests of residential amenity, there is a need for conditions requiring the submission and approval of a Construction Method Statement and a Delivery and Servicing Plan and a condition restricting the hours of working. Also, in the interests of residential amenity it is necessary for a condition relating to the control of noise from the development.
28. I have imposed conditions requiring the submission of a surface water drainage scheme, an archaeological written scheme of investigation and an investigation into

contamination prior to the commencement of development. These conditions are required in order to ensure adequate drainage, that any contamination is adequately identified and mitigated and that any archaeological remains are adequately investigated and recorded.

29. There is a need for conditions specifying the hours of operation of and deliveries to the unit in order to ensure the protection of residential amenity. I have extended the suggested opening hours by 1 hour to allow opening at 6am as originally requested by the appellant as I have seen no evidence to justify a departure from the time applied for and am satisfied that the proposed opening time would not be harmful to living conditions given the site context.
30. Details showing the proposed cycle parking, EV charging spaces have been provided as part of the proposal. I have therefore amended the suggested conditions to ensure that these facilities are provided and retained in accordance with the approved details. These conditions are necessary in the interests of promoting sustainable transport.
31. I have omitted a condition requiring the approval of details of a habitat enhancement scheme as this detail has been included within the submitted Wildlife Enhancement Plan, a condition restricting the burning of green waste as this detail can be dealt with as part of the Construction Method Statement (condition 3), and a condition requiring the submission and approval of an Arboricultural Method Statement and Tree Protection Plan as this detail has been submitted as part of the submitted Arboricultural Impact Assessment and Arboricultural Method Statement.
32. I have omitted a suggested condition requiring the approval of external lighting details as this is required as part of the approval of details of hard and soft landscaping (condition 11) and a suggested condition requiring the submission of an odour assessment as this detail forms part of the submission.

Conclusion

33. For the reasons given I conclude that the appeal should succeed.

N Robinson

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved drawings and documents:

Site Location Plan (Drawing No 2483-URB-ZZ-00-DR-A-208100 Rev P00a),
Site Block Plan as Proposed (Drawing No 2483-URB-ZZ-00-DR-A-208150 Rev P00a),
Ground Floor Plan as Proposed (Drawing No 2483-URB-ZZ-00-DR-A-208151 Rev P00a),
Roof plan as proposed (Drawing No 2483-URB-ZZ-RF-DR-A-208150 Rev P00a),
Elevations as Proposed (Drawing No 2483-URB-ZZ-XX-DR-A-208250 Rev P00a),
Sections as Proposed (Drawing No 2483-URB-ZZ-XX-DR-A-208350 Rev P00a),

Landscape Cross Sections (Drawing No QD784-301),
Cellular Tree Protection System (Drawing No QD784-303),
Cross Section Location Plan (Drawing no QD784-302),
Details of Unit 1 Well-being Space (Drawing No QD788-201 Rev A),
Unit 1 Well-being Space (Drawing QD788-200 Rev A),
Planting details (Drawing No QD788-203),
Hard Landscape Details (Drawing No QD788-204),
Landscape Masterplan (Drawing No GD784-300 Rev A),
Wildlife Enhancement Plan (Drawing QD784-304),
Transport Statement dated September 2021
Energy Strategy Statement Rev 01
Noise Impact Assessment dated January 2022
Flood Risk Assessment dated September 2021
Air Quality Assessment dated February 2022
Odour Risk Assessment dated February 2022
Arboricultural Impact Assessment and Arboricultural Method Statement dated 5th August 2022
Tree Survey Report revised January 2022

3) No development shall take place on site until a Construction Method Statement has been submitted and approved in writing by the local planning authority to provide for:

- a) Space on site where vehicles of site operatives and visitors can be parked with details of how site operatives and visitors will be required to make use of the parking area provided;
- b) Location on site for storage of plant and materials used in constructing the development;
- c) The erection and maintenance of security hoarding around the site;
- d) Identification of any footpath closures or road closures needed during construction;
- e) Required wheel washing facilities on site;
- f) A scheme for recycling waste resulting from the construction works;
- g) Measures for controlling the use of site lighting;
- h) Required measures to control the emission of dust, dirt and other airborne pollutants during demolition and construction; and
- i) Provisions to be made for the control of noise coming from the site during construction.

The approved plan shall be adhered to throughout the construction period.

4) No development shall take place until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- a) a survey of the extent, scale and nature of contamination;
- b) an assessment of the potential risks to:
 - human health,

- property (existing or proposed) including buildings, pets and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archaeological sites and ancient monuments

The development shall be implemented in full in accordance with the approved details.

5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before the development is occupied.

6) No development shall take place until a Sustainable Drainage Strategy and associated detailed design, management, and maintenance plan of surface water drainage for the site using SuDS methods has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) a timetable for its implementation, and
- b) a management and annual maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The development hereby approved shall not be first used until the sustainable drainage scheme for the site has been completed in accordance with the approved Drainage Strategy. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

7) No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted to and been approved in writing by the Local Planning Authority. The development shall take place in accordance with the detailed scheme approved.

8) No development shall take place above foundation level until details of the materials to be used in the construction of the external surfaces of the development have been submitted to and been approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details thus approved, which shall thereafter be retained.

9) No development shall take place above foundation level until a copy of an Interim BREEAM Certificate in accordance with the BREEAM Sustainability Standard demonstrating compliance with a minimum standard of BREEAM Very Good rating has been submitted to and approved in writing by the Local Planning Authority.

10) The development hereby approved shall not be first used until a copy of a Final BREEAM Certificate in accordance with the BREEAM Sustainability Standard following a postconstruction stage review carried out by a licensed assessor has been submitted to and approved in writing by the Local Planning Authority, demonstrating that the development has attained as a minimum the standard set out in the Interim BREEAM Certificate referred to in Condition 9.

11) No development shall take place above foundation level until a comprehensive scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. This shall include details of:

- a) Proposed finished ground and floor levels or contours, means of enclosure (including mammal gaps where appropriate), car parking layouts, other vehicle and pedestrian access and circulation areas;
- b) Hard surfacing materials and minor artefacts and other ancillary structures (e.g. furniture, refuse or other storage units, signs, lighting, external services, etc);
- c) Soft landscaping details shall include planting plan, specification (including cultivation and other operations associated with plant and grass establishment), tree pit specifications, schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetable;
- d) A maintenance programme detailing all operations to be carried out in order to allow successful establishment of planting;
- e) routes and details of proposed and existing functional services above and below ground including foul and surface water drainage, soakaways and SUDs details, power, communications cables and water and gas supply pipelines, including access points.

The hard and soft landscaping scheme shall be carried out in accordance with the approved details prior to the first use of the development hereby approved or in accordance with a timetable approved in writing by the Local Planning Authority.

Any trees or plants which, within a period of 5 years from the date of 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.

12) The proposed cycle parking spaces shall be provided in full accordance with the approved details prior to the first use of the development hereby approved and shall thereafter be retained in accordance with the approved details and shall remain available for the parking of bicycles at all times.

13) All vehicle parking spaces shall be provided in accordance with the approved details prior to the first use of the development hereby approved and shall be kept available for parking at all times thereafter.

14) The development hereby permitted shall not be first used until the vehicle access has been constructed in accordance with the plans hereby approved.

15) The development hereby permitted shall not be first used until the proposed Electric Vehicle charging points have been installed. The spaces shall be maintained for vehicle charging in accordance with the approved scheme at all times thereafter.

16) The development hereby permitted shall not be first used until the refuse and recycling storage facility has been provided in accordance with the approved plans. The facility shall thereafter be retained.

17) The development hereby permitted shall not be first used until a Delivery and Servicing Plan has been submitted to the Local Planning Authority and approved in writing. This plan shall set out how vehicles shall access the development without creating safety concerns and congestion based on the anticipated number of vehicle trips associated with delivery and servicing vehicles for the development. Thereafter deliveries and servicing will be carried out in accordance with the approved Delivery and Servicing Plan.

18) Any deliveries or waste collection to the development hereby permitted shall be restricted to the following times: Monday – Sunday: 7am to 11pm.

19) The development hereby permitted shall only be open to customers between the following times: Monday – Sunday: 6am to 11 pm.

20) No construction, demolition or associated deliveries shall take place outside the hours of 0800hrs to 1800hrs Mondays to Fridays, and 0900hrs to 1300hrs on Saturdays, and not at any time on Sundays and Bank or Statutory Holidays.

21) The specific sound level of the plant/equipment hereby approved, as measured at a point 1 metre external to the nearest noise-sensitive façade, shall be at least 10dB below the pre-existing background sound level, when all plant/equipment (or any part of it) is in operation. The rating level (specific sound level plus any adjustment for the characteristic features of the sound) as measured at a point 1 metre external to the nearest noise-sensitive façade (habitable window of a dwelling) shall not exceed the pre-existing background sound level when all plant/equipment (or any part of it) is in operation.