



Appeal Decision

Site visit made on 26 June 2024

by A Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2024

Appeal Ref: APP/T2405/W/23/3331315

Kingfisher Farm, Coventry Road, Sapcote LE9 4JU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Paul Taylor against the decision of Blaby District Council.
 - The application Ref is 23/0282/FUL.
 - The development proposed is construction of commercial storage building.
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Decision

1. The appeal is allowed and planning permission is granted for construction of commercial storage building at Kingfisher Farm, Coventry Road, Sapcote LE9 4JU in accordance with the terms of the application, Ref 23/0282/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs has been made by Mr Paul Taylor against Blaby District Council. That application is the subject of a separate decision.

Preliminary Matters

3. The appeal site forms part of a larger property in use as an antiques and salvage business. On this greater property, there is a large building used partly for storage and partly to display antiques for sale. There is a smaller shed opposite used for similar display purposes. The rest of that property is largely used for open storage of antiques, but there also are a number of shipping containers. Some of them store items salvaged from house clearances, and some are empty. The appellant advises the retail part of the business is open to the public Friday to Sunday.
4. Planning permission¹ was granted in 2012 for the erection of a commercial building. It was accepted at that time that the property was in Class B2 use and there is reference to the manufacture of game bird pens and other outdoor sporting items. The officer's report on an application² submitted in 2018 referred to there being an antiques/reclamation business at the property. The Council suggest the retail part of the operation now is such that it separately falls within Class E, as opposed to being an ancillary use, and hence the mix of uses at the property means the operation as a whole is a sui-generis use.
5. The proposal before me is for the erection of a storage building on a part of the property that currently contains shipping containers, an informal outdoor

¹ Ref No. 11/0462/1/PX

² Ref No. 18/1648/FUL

storage area and a car parking and manoeuvring area. My decision is focussed on that operational development and not on the use of the greater property.

Main Issues

6. The main issues are the effect of the proposal on highway safety, and whether the development is suitably located.

Reasons

Highway safety

7. Coventry Road is the B4114. It is a major route locally and has a speed limit of 50mph near the site. The section of the road past the site is long and straight with grass verges.
8. The 2012 permission required the vehicular access to have 6m radii and visibility splays of 2.4m x 160m to either side, for it to be 5.5m wide for the first 10m, and for any gates to not be within the first 10m. The Highways Authority suggest these requirements have not been met. Nonetheless, the appeal proposal would amend the access to have radii of 10m to either side, be 6m in width, and for gates to be set 15m back from the highway edge. The plans show visibility splays of 2.4 x 160m would be provided, but I saw at my site visit that due to the wide verges and straight alignment of the road, visibility is possible for a considerably greater distance and most likely in excess of the 215m required for roads with a 60mph speed limit.
9. Part IN5 of the Leicestershire Highway Design Guide says that restrictions will normally be placed on the increased use of existing accesses on A and B Class roads with a speed limit above 40mph, as is the case here.
10. The appellant suggests that the operation currently generates six movements a day, though more on days when the retail aspect operates and that the proposed storage building would not alter this. The Highways Authority suggest a B8 building of the size proposed could generate 22 vehicle trips a day based on the TRICS database. However this figure would relate to a new development, not one that replaces existing storage at an existing commercial site. I consider it unlikely that replacing open or container storage with a more permanent storage building would be likely to generate any increase in vehicle trips. Indeed, I note the existing permission places no restriction on the amount of the site that could be used for open storage, so there would be no increase in the storage capacity of the property overall.
11. The plans show parking for eight cars within the appeal site and a further eight elsewhere at the property. These would most likely only be in use when the retail aspect is operating, and I have no reason to consider that this would not be sufficient.
12. The appellant states that HGVs would not visit the site on days when the site is open to retail customers, and that there are only 1-2 HGV movements per year. In any case, there would appear to be sufficient room within the site for HGVs to turn such that they could enter and leave the site in a forward gear without compromising the proposed car parking area. Similarly, given the limited number of expected HGV movements, it is unlikely that HGVs would be entering or leaving the site at the same time as other vehicles. Therefore, although the access may not be wide enough for two HGVs to pass each other,

I would consider it highly unlikely that this would ever be necessary. Also although any HGVs turning left out of the site may need to cross the centre line of the road, visibility from the access is such that drivers would most likely pull out only when the road was clear in both directions. In any case, this movement would only happen very infrequently and in light of the lawful use of the site could happen already.

13. Given the high speed of the road, all vehicles would need to slow down substantially before entering the site. However the access is reasonably prominent, with its signage and palisade fencing being visible from quite a distance along the road, so when vehicles do slow down to access the site this would not be unexpected to vehicles behind. In any case, such movements can already occur and as I consider the proposal would generate no additional traffic, it is unlikely that there would be any greater risk in this regard. Indeed, the larger radii means vehicles may not need to slow down quite as much as they would do with a 6m radii. Likewise, although I note there have been accidents along this road in the past five years, including two fatalities, I consider that there would be no increased risk resulting from the development because there would be no increase in traffic movements.
14. No Road Safety Audit has been provided. However the proposed alterations to the access would only improve it and, as set out above, I consider the access would be able to operate safely and with no likely increase in traffic using it. As such I do not consider it essential that a Road Safety Audit is undertaken providing the planning conditions are complied with.
15. Overall, there would be no increase in traffic movements to and from the site resulting from the erection of the storage building. The proposal would therefore accord with policy DM8 of the Blaby District Local Plan (2018) which says that development will be required to meet highway design standards and to provide an appropriate level of parking and servicing provision as set out in the most up-to-date Leicestershire Local Highway Guidance. The lack of an increase in the use of the access means it would not be contrary to part IN5 of that guidance as set out above. It would also accord with paragraph 115 of the National Planning Policy Framework which advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Location

16. The site is surrounded by agricultural land and is substantially detached from the nearest village of Sapcote. Local Plan policy DM3 states that new employment development should be located within settlement boundaries or allocated sites. This site is within neither. However it is clear that the site does have a lawful commercial use as set out above and the proposed building would not increase the commercial storage capacity of the site.
17. Policy CS13 of the Blaby Core Strategy (2013) refers to town centre uses. However I am not considering the wider business and am just focussed on the proposed storage building on the appeal site. The storage use is not a town centre use.
18. It is acknowledged that there are no public transport links close to the site and no pavement along this part of Coventry Road, and whilst there is a public footpath opposite the site which provides a pedestrian link to Sapcote, this runs

across fields and is unlit. However as set out above, the use of the whole operation including the retail element, is not for my consideration in this appeal.

19. As such there is no reason for me to consider that the proposed storage building is inappropriately located. It would therefore not conflict with policies DM3 and CS13 as set out above. It would also not conflict with Core Strategy policy CS6, which supports employment uses generally.
20. Policy CS18 was referred to in the decision notice and states that planning permission will not be granted for development which would have a significantly adverse effect on the appearance or character of the landscape. No such harm is alleged by the Council and I have no reason to come to a different view.

Conditions

21. The conditions relating to the commencement of the development, the approved plans and the permitted use of the building are imposed in the interests of certainty. The conditions relating to the finishing materials, CCTV and lighting, and open storage are necessary in the interest of protecting the character and appearance of the area. All other conditions are necessary in the interest of highway safety.
22. A condition requiring the removal of all storage containers is unnecessary. This is because the proposal is to replace them with the new building, and with the rest of the appeal site used for the access, parking and turning areas, which are all secured by other conditions, there would be nowhere else on the appeal site that the containers could be retained.
23. I have not imposed the suggested conditions preventing sub-letting of the building as condition 4 would restrict its use to that associated with the existing business. I saw no evidence of any sub-letting at my site visit.
24. In view of the fact that it is likely that there would only be two HGVs trips per year, and not when the site is open to the public, there is no need for the parking condition to include reference to HGV parking.

Conclusion

25. I consider that the proposal would accord with the development plan taken as a whole and there are no other considerations to indicate a decision other than in accordance with the plan. Therefore the appeal is allowed.

A Owen

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos; site location plan at 1:2500 scale, Planning 01 (Elevations Plans and Site), Planning 02 (Elevations), RHC-23-027-01, RHC-23-027-02 and RHC-23-027-03.
- 3) The commercial storage building hereby permitted shall be constructed using the materials specified on the submitted Planning Application forms, and finished in dark green metal cladding to match the existing building.
- 4) The commercial storage building shall only be used for Class B8 storage purposes in relation to the existing antiques/reclamation business and for no other purpose (including any other purpose in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 5) Open storage of goods, equipment and materials shall only take place within the appeal site as shown on the site location plan at 1:2500 scale and drawing no. Planning 01 (Elevations Plans and Site).
- 6) No part of the commercial storage building hereby permitted shall be used until such time as the access arrangements shown on Access Design & Visibility Extents drawing number RHC-23-027-01 have been implemented in full.
- 7) No part of the commercial storage building hereby permitted shall be used until such time as vehicular visibility splays of 2.4 metres by 160 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
- 8) The commercial storage building hereby permitted shall not be used until such time as car parking with turning facilities has been provided, hard surfaced (and demarcated) in accordance with drawing number Planning 01 (Elevations, Plans and Site). Thereafter, the onsite parking and turning provision shall be kept available for such uses in perpetuity.
- 9) No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 10) Prior to their installation, details of any lighting and CCTV shall be submitted to and agreed in writing by the local planning authority. Any lighting and CCTV shall be installed in accordance with the approved details.