



Appeal Decision

Site visit made on 2 July 2024

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/C3105/W/24/3336555

Apollo Office Park, Ironstone Lane, Wroxton, Oxfordshire OX15 6AY

- 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 Apollo Business Park LLP against the decision of Cherwell District Council.
 - The application Ref is 22/03245/F.
 - The development proposed is Provision of 10 employment units (Office, Research and Development and Light Industry), associated car parking, landscaping/biodiversity enhancements/works and provision of foul water treatment plant.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) whether the appeal site is a suitable location for the proposed development, with particular regard to the scale, character and appearance of the surrounding area and vehicle journeys; and ii) the effect of the proposed development on existing trees.

Reasons

Suitable location

3. The appeal site comprises an area of undeveloped land next to the existing Apollo Office Park ('AOP') comprising purpose built brick commercial units. Mature trees and vegetation bound the site along the rural roads of Ironstone Lane and Drift Lane. These lead to Stratford Road (the A422), the village of Wroxton a short distance from the site and the town of Banbury further away. Surrounded by fields, there is a sports pitch to the north, overhead lines cross the site and sporadic residential development in the wider area. However, the appeal site forms part of the open countryside in a rural location. The proposal seeks to develop 10 employment units. The intended use would be for commercial, business and service in Use Class E(g).
4. Policies ESD 1 and SLE 1 of the Cherwell Local Plan 2011-2031 adopted July 2015 ('the Local Plan'), seek to focus development and economic activity towards the main urban areas in the interests of delivering sustainable development through, amongst other measures, reducing the need to travel and providing employment close to homes.
5. Policy SLE 1 permits employment development on unallocated sites in rural locations subject to certain criteria. As such there is flexibility for development of an appropriate scale in rural areas provided that exceptional circumstances

are demonstrated. These policies are broadly consistent with the National Planning Policy Framework ('the Framework') in particular, Part 6, Building a strong, competitive economy.

6. The development would form an extension to the AOP, but this is not an exceptional circumstance and a case that could be readily repeated elsewhere. However, several letters of intent for units in the proposed development have been provided from new and existing businesses wishing to expand. Whilst the letters of intent may not account for all the proposed units, the appellant's evidence indicates that there are regular enquiries made within the area. The current level of occupancy at the AOP and enquiries received indicates a demand which the Council has not disputed.
7. The interest in the units at the appeal site is primarily due to the site's proximity to the existing workforce and transport links. There are only limited details in relation to potential future occupiers. The letters do not completely explain the nature of the businesses involved and why a countryside location is required. The proposed uses contained in Use Class E(g) are those which could also be considered appropriate within established industrial areas, or within or on the edge of the nearest settlement, where it could be accessible to the widest possible catchment of potential customers, existing and future employees. There is also no certainty that employees would continue to reside nearby in the future, and no comparison between the transport links in established sites has been put forward to compare. The need to be located in the rural area has not been clearly demonstrated.
8. The proposed development is also, by definition, a single major development¹. Unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment, then development is expected to be small scale. In the absence of a clearly defined definition, this is a matter of planning judgement, taking into account the nature of the site and surrounding area. The proposals consists of sizable buildings and 32 parking spaces. The overall quantum of development would be a relatively substantial proportion in comparison to the floorspace and number of buildings on the existing AOP. Taking into account potential vehicle trips, I am of the view that the proposal is not small scale.
9. The AOP is quite visible across the playing fields, but it has a more discreet appearance at the junction of Ironstone Lane and Drift Lane and its site entrance. This is due to the existing trees and vegetation surrounding the appeal site, and variance in levels which screen most of the buildings apart from the roofs. There are some tall features such as pylons, and the site has been infilled with inert waste. However, the natural features on the site and the boundaries, including trees and hedgerows, mark it as a separate area from the AOP. The site adds to the characteristic undeveloped rural character of the area, which is largely free from built development and urban influences.
10. The 10 units would be arranged in blocks along the site boundaries with the existing AOP and Ironstone Lane. The units would appear as two storeys but would have a mezzanine at first floor and larger roller shutter door, they would incorporate energy efficient measures and be of a high modern standard for future occupiers. The proposals would not harm the living conditions of any nearby residents or any designated buildings or features.

¹ Glossary to National Planning Policy Framework

11. Although visibility within the wider landscape would be limited and the development would not be prominent from all angles or viewpoints, it would be visible along two converging roads and at the entrance to the AOP. There would be some localised reduction to the openness of the countryside. However, being positioned close to the site boundaries with the public highway, would draw attention and emphasise the scale of the buildings. These would appear less spaciouly laid out than the existing AOP, large and visually cramped within the site.
12. It is clear that the appellant intends to moderate the effect on the character and appearance of the area through additional landscape planting. Whilst the trees are intended to be retained, the effect of the health and longevity of the trees, a matter which I return to below, is uncertain. The visuals provided are also shown during a time when trees are in full leaf. As such it is likely that the development would be more prominent for a significant proportion of the year. In any event, I am not convinced that there would be sufficient depths along the site boundary to completely screen views of the buildings, hardstanding and parked vehicles, particularly where taller planting needs to avoid overhead wires. As such the proposal would be an incongruous incursion into the surrounding area as opposed to a subtle addition to the AOP.
13. Compliance with Policy SLE 1 is also dependent on whether the development can be carried without undue detriment to the highway network. Development should also wherever possible contribute to the general aim of reducing the need to travel by private car. The effect on the highway network and highway safety is a different matter from the effect of inappropriate traffic on rural roads and need to reduce travel.
14. I have no substantiated evidence that the anticipated number of weekly trips on the narrow rural roads would be significant in terms of the effects upon the highway network or, despite concerns about the road quality, that it would be harmful to highway safety. The Council submits that the site is in an unsuitable location. I have no reason to doubt that the appellant's Travel Plan submitted for the earlier application was found to be acceptable and capable of delivering reductions in private car use. Nonetheless, whilst I note the intention for providing car sharing opportunities, use of the local bus service and the over-provision of cycle parking I have not been provided with the Travel Plan. As such I am not certain the objectives could be delivered. This ultimately limits the weight I can attach in this respect.
15. Notwithstanding my findings above Framework paragraph 89 states that decisions should recognise that sites to meet local businesses in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. The surrounding unnumbered roads are narrow with undefined verges and intermittent passing places. Although the appeal site is not a significant distance from the A422, the proposal would not satisfactorily deliver development that reduces the need to travel. number of anticipated vehicle journeys on the surrounding rural roads has the potential to give rise to inappropriate traffic being located within the rural area.
16. Notwithstanding my findings above, the criteria in Local Plan Policy SLE1 also includes support for proposals where there are no suitable available plots or premises within existing nearby employment sites in the rural areas. I have

been provided with evidence that suggests that there is very limited availability of similar units within established industrial sites within Banbury and a 10 mile radius of the appeal site.

17. The Council has not wholly disputed these findings, but it has subsequently raised concerns that the appellant's updated availability assessment excludes areas north of the M40. However, the Council's own assessment of available premises extended to a similar distance, and it has not clearly articulated where other nearby employment sites are. Even though the Council's own research into vacant units suggests there may be potential to accommodate the demand, the evidence provided by the appellant would indicate that those available do not meet business requirements for the enquiries received.
18. Paragraph 85 of the Framework states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Furthermore there is support within paragraph 88 of the Framework where it relates to supporting a prosperous rural economy. I find that evidence has been provided to support the proposed development in this regard. However, the economic benefits have not been quantified nor has it been demonstrated that the existing businesses would not be viable if the appeal should fail.
19. Taking Policy SLE 1 as a whole, I conclude the appeal site is not in an appropriate location for the proposed development, having regard to character and appearance of the surrounding area and vehicle movements. The proposal would conflict with Local Plan Policies PSD 1, ESD 1 and SLE 1. Together these seek, amongst other things, to deliver sustainable development through mitigating climate change by delivering development that reduces the need to travel or where they are small scale and would not have a significant effect on the character of the surrounding environment. The proposal would also conflict with paragraph 135 of the Framework, where it seeks to ensure development is sympathetic to landscape setting. The proposal would also not promote sustainable transport modes required in paragraph 114 of the Framework. However, whilst I acknowledge this conflict with the development plan, there are material considerations as noted above that weigh in favour of the proposal, which I return to within the planning balance.

Existing Trees

20. The trees along the site boundaries appear to be well established and make a positive contribution to the visual amenity of the area. I have not been provided with the tree reports submitted with the planning application. I therefore have no substantive evidence which demonstrate that the trees are anything but healthy and capable of surviving on site for many years and therefore suitable for retention.
21. The appeal has been submitted with a revised landscape scheme which shows the trees to be retained alongside Ironstone Lane and Drift Lane with Root Protection Areas (RPAs)². Structures should be located outside the RPAs of trees to be retained, as well as measures to ensure harm to retained trees is prevented. However, there are areas of macadam, parking spaces and the footprint of buildings encroaching into several RPAs. These have the potential to exert pressure on trees which could have an adverse impact upon them. The

² Drawing: QD813-102 Planting Plan

- removal or loss of trees would reduce the screening of the development site and wider AOP. This would have an increased urbanising effect if this were to occur and would result in further visual harm to the character and appearance of the area.
22. It is suggested within the addendum tree report submitted with the appeal that the calculation of RPAs, should be treated with a degree of professional scepticism and serve as little more than a rule of thumb. As such it is suggested that the RPA is an inappropriate tool in the context of the appeal site with changing land levels around the periphery of the site being a factor in this. Despite the revised plans the appellant contends that the buildings are located outside of the RPAs.
23. Therefore, whether the development is within the RPAs or not, I cannot be certain that the development, including hard surfacing would not compromise the environment or viability of the trees. Whilst I appreciate that the trees are surviving within a seemingly hostile environment, they would be located very close to the proposed development. It has been cited that to establish the presence of tree roots could potentially cause other consequences harmful to the trees. I am not certain that further investigations secured by conditions would be appropriate given the concerns for the trees that could arise from additional tests.
24. Although the proposals include new planting, I am not convinced that this would outweigh the loss of existing trees. New trees and lower shrub planting would not provide the same level of visual mitigation for many years. Although I note the creation of habitats and bio-diversity net gains have been proposed, this does not outweigh the harm that would arise from the potential loss of existing trees which may also provide ecological habitats.
25. I therefore conclude, in the absence of information, that the development would have a harmful effect on existing trees. The proposal fails to accord with Local Plan Policies PSD 1 and ESD 10. Together these seek to deliver sustainable development and encourage the protection of trees. The proposal would also conflict with the provisions of paragraph 136 of the Framework which advises that existing trees should be retained wherever possible.

Other matters

26. In addition to the letters of intent and support it is noted that Wroxton Parish Council have not objected. However, I have determined this appeal on its planning merits taking into account all material considerations.
27. The appellant's view is that the Council has failed to substantiate and defend its reason for refusal as far as it relates to vehicular movements as well as extending the search area for vacant units. They consider this could be viewed as unreasonable behaviour. However, this is not a matter before me as no costs application was submitted.

Planning Balance and Conclusion

28. The proposed development would extend beyond the boundaries of the existing industrial estate and the need for a rural location for the businesses to operate in the rural area has not been demonstrated. Moreover, the proposed development would not be small scale and would harm the character of the surrounding environment. On the basis of the information before me it would

not reduce the need to travel by private car on rural roads as well as potentially harming existing trees. I attached significant weight to the harm arising and conflict with the Local Plan policies in these respects.

29. That said, the appellant has provided reasons as to why development in this rural location should be allowed. In particular I have taken into account the demand and availability of alternative locations. I have no compelling evidence before me to indicate that other sites, including those suggested by the Council, would be suitable, or available, to meet the demand. There is also local support for the proposals. Moreover the proposed development would help to sustain the local rural economy, providing employment during construction and occupation, and would garner support from the Framework. However, these benefits are tempered as there is no substantive evidence before me to demonstrate the scale of these benefits. I therefore attach moderate weight to these aspects.
30. Whilst the proposed development would result in bio-diversity net gains and be energy efficient, I have no evidence of the extent of these benefits, and that they exceed normal planning policy requirements. I therefore attach limited weight.
31. There is no evidence that traffic associated with the development would harm the operation of the highway network or highway safety. It is noted that the Council has no objections to the proposal in respect of impacts relating to drainage, and the living conditions of nearby residents. These weigh neither for, nor against the development.
32. Overall, I conclude that the cumulative harms and related policy conflict identified do outweigh the benefits. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
33. For the reasons given above the appeal should be dismissed.

K Williams

INSPECTOR