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# Appeal Decision

Hearing held on 8 October 2024

Site visit made on 9 October 2024

**by Stuart Willis BA Hons MSc PGCE MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 October 2024**

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## **Appeal Ref: APP/W0340/W/23/3329567**

### **Pitchkettle Farm, Goodboys Lane, Grazeley Green, Reading RG7 1ND**

- 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 Neil Stewart of Pitchkettle Investments Ltd against the decision of West Berkshire District Council.
  - The application Ref is 21/02710/FUL.
  - The development proposed is erection of two modular buildings following demolition and removal of existing structures, and change of use of site to flexible Class B2/B8/E(g) use.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. At the Hearing, the appellant confirmed that they no longer wished to seek permission for a B2 use. As this change only removes an element of the scheme and does not alter what areas could have been used for the remaining uses, I am satisfied that no one would be prejudice by my consideration of the scheme without the B2 use.
3. The appellant provided an Acoustic Assessment, Written Statement on Transportation Matters (WS), a Building Regulations Compliance Report and Output Document as well as an Energy Performance Certificate with their appeal. As they were provided at the outset of the appeal, the Council and third parties have had the opportunity to comment on them. Therefore, they would not be prejudiced by me taking them into account in my reasoning.
4. As a result of this additional information, subject to conditions, the Council did not wish to pursue the refusal reasons in relation to living conditions of nearby occupiers or traffic generation. As there were third party concerns over these and they were discussed at the Hearing, they remain part of the main issues below.
5. The two modular buildings were in place at the time of my visit and there were some storage containers on the site. During the Hearing the appellant confirmed that the modular buildings are already in use as offices and that while, not across the whole of the site, or to the extent intended, there was some storage taking place. Therefore, I have considered the appeal on the basis that the development has already commenced.

6. There was also a further building on site to the rear of the caravan. This, and other matters at the site subject to enforcement investigations by the Council are not matters for my consideration in this appeal.
7. There is a certificate of lawful development at the site, including a further building referred to as the Barn, for use as a recycling centre. Given this is in place and no alternative use for the site has been indicated, were the appeal to be dismissed, there is a real prospect that the previous use could be re-introduced.

## **Main Issues**

8. The main issues of the appeal are:
  - Whether the appeal site is an appropriate location for the development with regard to the local development strategy and access to a range of transport modes,
  - The effect of the development on the character and appearance of the area,
  - Whether the development maximises sustainable construction opportunities, with regard to the local development strategy,
  - The effect of the development on public safety, with particular regard to the off-site nuclear emergency planning arrangements for the Burghfield Atomic Weapons Establishment (AWE).
  - The effect of the development on the living conditions of the occupiers of the dwelling granted under 20/01304/CERTE with regard to noise and disturbance; and
  - The effect of the development on highway safety.

## **Reasons**

### *Whether appropriate location*

9. Policy ADPP1 of the Core Strategy<sup>1</sup> sets out the development strategy for the area and a settlement hierarchy. This includes seeking to locate most development within or adjacent to settlements with urban areas as the focus. This is related to the accessibility of settlements and states intensive employment sites such as offices and major mixed uses should be in town centres. Significant intensification of employment generating uses should be avoided in areas that lack access by different modes of transport. It also states that the majority of development will take place on previously developed land. In the open countryside, only appropriate limited development will be allowed, focused on addressing identified needs and maintaining a strong rural economy.
10. Policy CS9 of the Core Strategy states that storage uses will be directed to defined employment areas and existing suitably located employment sites. Outside of these areas the compatibility of the uses with the surrounding area and impacts on the road network, including sustainable modes of transport would be considered. New office development is directed to town and district

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<sup>1</sup> West Berkshire Core Strategy (2006 - 2026) Development Plan Document

centres. A sequential search is required outside of the defined areas and business development should promote sustainable transport use.

11. Policy CS10 of the Core Strategy seeks to diversify the rural economy, particularly where related to or adjacent to service centres and villages. Existing businesses will be supported to maintain the vitality of smaller settlements.
12. Policy CS13 of the Core Strategy and Policies K3 and K5 of the Local Transport Plan<sup>2</sup> seek to reduce the need to travel, improve travel choice and facilitate sustainable travel by focusing development where there is good access to services and facilities to reduce carbon emissions from road transport.
13. The National Planning Policy Framework (Framework) states decisions should enable the sustainable growth and expansion of all types of business in rural areas and that sites to meet local business and community needs 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. Schemes should exploit any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, are also encouraged where suitable opportunities exist. The Framework outlines that the planning system should actively manage patterns of growth and recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
14. Although the Framework does not specify particular uses in rural areas, it does refer to them meeting local needs and that sites should be well related to settlements and manage patterns of growth. As such, insofar as they relate to this appeal, the development plan policies referred to are broadly consistent with the Framework and I give them full weight.
15. In relation to the number of people at the site this could be controlled by condition to prevent an increase. From the WS, while not a worst-case scenario for B8 uses, the traffic generation would not be significant or significantly greater than the previous use of the site. Moreover, a condition could be imposed to limit the B8 use to storage only, not distribution which could likely result in greater traffic movements.
16. However, the appellant agreed at the Hearing that the site is not easily accessible by bicycle and that opportunities to make the location more sustainable are limited. Furthermore, no clear public transport options have been put forward. While cycle parking and electric vehicle charging points could be introduced, and are not currently in place, a considerable proportion of the journeys to and from the site would be by motor vehicle given the lack of lighting, footways or cycle routes near the site along with the speed limit and narrow windy lane near the site. The proposal is therefore contrary to the above policies where they seek to encourage access from different modes of transport.
17. Movements from the previous and fallback use would have been predominantly by private vehicle. Given that the majority of the buildings associated with that former use have been removed, the likelihood of the fallback being able to

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<sup>2</sup> Local Transport Plan for West Berkshire 2011-2026

operate at the same level as before, and generate the same level of movements is reduced.

18. The site is previously developed land and the relevant policies do not prohibit all development outside of defined centres or settlements. Nevertheless, there is a clear sequential approach to the location of development in the Core Strategy. No definition of appropriate limited development is given in Policy ADPP1. Notwithstanding this, the appellant confirmed at the Hearing that there is no specific business need for either use to be located at the appeal site or in the open countryside, other than the site being made available to the appellant. Similarly, no compelling evidence that the needs of the local economy, business or community require the use to be beyond settlements has been put forward, other than the fallback use. This does not indicate that the proposed uses are suitable at the site and the use of previously developed land while encouraged, is not the sole consideration on whether a site is suitable.
19. Policy CS9 allows offices to be located at existing employment sites and premises not in an edge of centre or out of centre location. However, this is the final location sequentially. No sequential search has been carried out for the office use. Therefore, there may be better located and more accessible sites that would reduce the need to travel. While an existing employment site, the site is not suitably located given the lack of alternative modes of transport.
20. Even if businesses at the site were considered small or medium sized for Policy CS10, they do not currently have planning permission to be there and are not 'existing' in that context. Policy CS10 does not indicate only particular uses are permitted, that they are linked to farm diversification or require all such schemes to be in or adjacent to service centres and villages. The scheme does diversify the rural economy and provides job opportunities. No detailed information on the contribution of the appeal scheme to the local economy is provided and as such this attracts small weight. Compliance with CS10 does not imply accordance with the other policies.
21. Therefore, the appeal site is not an appropriate location for the development with regard to the local development strategy and access to a range of transport modes. It is contrary to Policies ADPP1, CS9 and CS13 of the Core Strategy and Policies K3 and K5 of the Local Transport Strategy where they seek to direct certain types of development to particular locations where they are most accessible. It is also contrary to the Framework where it refers to developments meeting local business and community needs in rural areas and managing patterns of growth.

#### *Character and appearance*

22. The development has already commenced and many of the previous buildings have been removed. Currently, much of the site is open. Pictures of the site indicate that there were buildings visible from public views, including some near the front of the site and some not in a good condition. Nevertheless, frontage vegetation, the scale of many of the buildings and location of the storage areas as defined in the certificate of lawfulness for the recycling use, mean that much of the development and activities at the site were largely screened. The area of the site used for recycling centre storage was to the side and rear of the Barn rather than in front of it.

23. Therefore, while within the site the industrial nature of the use would have been obvious, the visual effect would have been mostly limited in external views. The extensive areas of hardstanding are at ground level. It would have resulted in limited harm to the character and appearance of the wider area, which other than the adjacent Woodside Farm, that is also generally screened from the road, is of predominantly undeveloped open fields and mature vegetation. The upper part of the larger Barn has an agricultural appearance and therefore is not incongruous with the surrounding area or previous buildings on the site.
24. At the time of my site visit, the modular buildings were clearly visible in views from the road at the entrance and from the approach from Woodside Farm. Pictures of the previous buildings show them to be in a similar position and of similar scale to the office building. However, they were simplistic and utilitarian buildings.
25. In contrast, the office building, while not of significant scale and materials that have darkened, is clearly not of an agricultural or industrial appearance with many domestic style openings and a flat roof. As such, the appearance of the office building is incongruous with the wider area. Although strengthening the landscaping would assist in screening the office building, it would take some time to mature and be effective. Moreover, although only passing views, its discordant appearance is obvious on the approach from either direction along the lane. The smaller building has an agricultural feel given the colour, materials and limited openings and is therefore not out of keeping.
26. No plan or clear information has been provided at the Hearing or in the written submissions to clarify where, to what extent and what height, storage would take place at the site. I saw containers stacked upon each other and located in the area between the modular buildings and the Barn. Even if a condition was imposed to limit the use to storage only, the exact nature of the storage has not been confirmed. The storage containers, which were said by the appellant to be indicative of the type of storage that may take place across more of the site, are more industrial features and are not something that appeared to be typical of the area.
27. Imposing a condition requiring a land use plan would not be appropriate as it was clearly the intention of the appellant to use this frontage area for storage. Furthermore, while it was suggested storage could be around the boundaries, there was no clarity of how this would be laid out and this is not the case at present. Storage could take place across the whole of the site outside of the modular buildings, in areas that were not defined as storage in the recycling centre certificate of lawful development. This could be an extensive area and result in a considerable urbanising of the site that could be seen through and over boundary treatments and vegetation. In this instance, and without any specific parameters, the provision of such layout and height details would be needed prior to the decision to be able to fully assess the effects.
28. Consequently, the development harms the character and appearance of the area. It is contrary to Policies CS14 and CS19 of the Core Strategy where they seek to conserve and enhance the landscape, character and appearance of an area.

### *Sustainable construction*

29. Policy CS15 of the Core Strategy requires all new non-residential buildings to meet BREEAM Excellent as a minimum standard of construction. This is for any type of such building and the policy does not set out any minimum floorspace for this requirement to apply. The policy aims to ensure sustainable construction and renewable energy generation contribute to achieving emissions reductions to meet carbon targets.
30. EPC rating information and Building regulations details have been provided to demonstrate the energy efficiency that the buildings currently achieve. Measures such as electric car charging points were also suggested. Nevertheless, there is no evidence to indicate that the modular buildings have achieved BREEAM Excellent. The appellant also indicated at the Hearing that they do not know if the building can achieve the required standard or not.
31. It would be unreasonable to impose a condition requiring BREEAM Excellent where it is not clear that it could be achieved. Amending the condition to include wording such as 'as far as possible' or 'as far as practical' would not be precise and would introduce a level of uncertainty about what should be achieved. While retro-fitting measures may be more expensive than for buildings yet to be constructed, I have no details of the costs involved and there is also a lack of compelling evidence to justify the appeal scheme not meeting the stipulated standard.
32. That previous buildings at the site did not meet this standard does not alter the requirement for new buildings to reach these, and in any event, many of the buildings associated with the recycling use have already been removed.
33. Consequently, the development fails to maximise sustainable construction opportunities, with regard to the local development strategy. It is contrary to Policy CS15 of the Core Strategy.
34. Although the Framework does not set the same standards for buildings, there is nothing that prohibits Council's setting their own levels. Moreover, the Framework states part of the environment objective of sustainable development includes using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

### *AWE*

35. The appeal site is located in the Inner Zone of the Detailed Emergency Planning Zone (DEPZ) for the AWE. Policy CS8 of the Core Strategy sets out that in such locations in the interest of public safety all proposals will be considered having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety, to include how the development would impact on "Blue Light Services" and the emergency off site plan in the event of an emergency.
36. The Framework states that local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them.

37. An increase of the number of people within the DEPZ and the protection afforded to them in the event of an incident could affect the capability of the response and implementation of the Off-Site Emergency Plan (OSEP). Any increase relates to all people at the site, not only members of staff.
38. The ONR<sup>3</sup> and the Council's Emergency Planning Team objected to the proposal at the application stage. This was in part due to a lack of information and uncertainty whether any population increases could be accommodated in the OSEP, an on-site emergency plan and appropriate protective actions.
39. The certificate of lawful development for the recycling centre at the appeal site did not limit or stipulate the number of staff or visitors to the site. While the Council refer to a figure of 9 staff being specified in statutory declarations, these are not before me, and there is no clear indication of the level of visitors to the appeal site during the recycling use.
40. The appellant puts forward a figure of 11 staff based on their knowledge of the reduction of staff when the recycling centre ceased at the appeal site but continued at Woodside Farm. In the absence of more detailed information relating to the previous use, I consider 11 to be a reasonable basis for the consideration of the scheme and potential number of people that could lawfully be at the site under the fallback position.
41. At the Hearing, the Council, including their Emergency Planning Team, along with the representative of the ONR accepted that this figure should be used for the consideration of the appeal scheme.
42. It is proposed to limit the number of people at the site, in relation to any of the businesses to 11 by condition. The appellant indicates this is the current number of employees associated with the Class E business operating from the modular buildings, although they are rarely all on site at the same time. Therefore, there would be scope for some people working or visiting the B8 use or anyone on site associated with the Barn. No increase in the number of people at the site is sought and if there was a desire to expand in the future that could be assessed at that time.
43. Even if there were different owners or occupiers within the appeal site, given that records could be kept and access to the site restricted or by appointment only, a condition limiting the number of people on site would be enforceable. This could be from requests for a visitor log or observations on site. Further details of the mechanisms to record and monitor comings and goings at the site could form part of the on site emergency plan, part of the same or a different condition were the appeal to be allowed.
44. Moreover, as the condition would help protect public safety and not prevent the operation of the uses, it would be reasonable. This would prevent any increase in people at the site in comparison to the fallback.
45. While precise information concerning the construction and safety of the modular buildings has not been provided, Building Regulations details have been, and it was confirmed that facilities such as showers and toilets are already in place. These could be used by those on site were an incident to occur where they needed to remain there to ensure self-decontamination and ability to shelter. The appellant indicated at the Hearing that the buildings are

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<sup>3</sup> Office for Nuclear Regulation

composite foam on a steel frame, something Mr Guilfoyle considered to be encouraging and was reasonably confident the buildings would be suitable. From the evidence presented by all parties, including photographs, the buildings would, even if with some additional mitigation, be suitable were urgent protective actions required.

46. While there is no landline at the site at present as a means of alerting those on site to any incident at the AWE, discussions at the Hearing indicated that suitable methods were feasible.
47. Therefore, subject to conditions that encompassed limits on the number of people at the site, the provision of an on-site emergency plan, with appropriate review periods and removing permitted development at the site to prevent different use or structures, the proposal would not represent an increased risk.
48. As such, the scheme would not harm public safety, with regard to the off-site nuclear emergency planning arrangements for the AWE. It complies with Policy CS8 of the Core Strategy and Framework where they require consideration and consultation regarding the effects of a development on major hazard sites.

#### *Living conditions*

49. The Acoustic Assessment conclusions were based on the storage areas being 85m away from the caravan, in a similar location to the previous use as a recycling centre. As above, there are no details of the location of the storage areas and storage is currently taking place between the Barn and the modular buildings. Movements at the site would pass close to the caravan which is located adjacent to the entrance and initial part of the yard.
50. However, a condition restricting the use to storage only and not distribution would limit the number of vehicle movements that would pass the caravan. The nature of a storage use would also mean the type of activities taking place would primarily be loading and unloading.
51. Restrictions on the hours of operation would also prevent disturbance outside of these times. At the Hearing the previously suggested times were reduced to remove any opening on Sundays or Public Holidays.
52. Were the appeal to be allowed, conditions could be imposed requiring a further Noise Assessment once the nature of the storage use was confirmed or if it were to change. While the timing of this would need to be altered from that suggested, this could also include a requirement for mitigation measures to be put in place if needed. Conditions relating to landscaping and boundary treatments could also be imposed. This would reduce any noise from the likely limited activities that could take place under a restricted B8 use.
53. Therefore, the development would not harm the living conditions of the occupiers of the dwelling granted under 20/01304/CERTE with regard to noise and disturbance. It accords with Saved Policies OVS5 or OVS6 the Local Plan<sup>4</sup> and Policy CS14 of the Core Strategy where they seek to reduce and minimise effects of pollution, including noise, on the wider locality.

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<sup>4</sup> West Berkshire District Local Plan 1991-2006 (Saved Policies 2007)

### *Highway Safety*

54. The WS considered a caravan storage facility when looking at comparable traffic movements for the B8 element of the proposal. Given the range of businesses that could fall within a B8 use, the WS does not represent a worst-case scenario. A distribution centre use, which the WS did not consider, would likely generate far more movements than a storage one. Were the appeal allowed a condition could prevent a distribution use.
55. While Goodboys Lane is narrow in part, there are some passing places, including near the entrance to the site and that of Woodside Farm. Moreover, much of the wider road network has 2 lanes. This would reduce chances of conflict.
56. It has not been demonstrated that other B8 storage uses would result in traffic movements that would, or that the type of vehicles associated with it would, harm highway safety. Although whether the type of storage use would be restricted was discussed, ultimately Mr Goddard also stated that an open B8 use would be acceptable.
57. Due to the scale and use of the modular buildings, the type and number of vehicle movements associated with the Class E element of the scheme is not significant. Therefore, it does not lead to highway safety concerns.
58. Details of parking areas could be subject to conditions. This would ensure sufficient space was provided on site and prevent instances of dangerous parking on the highway.
59. As such, the development does not harm highway safety. It accords with Policies CS9 and CS13 of the Core Strategy and Policy K13 of the Local Transport Plan where they, in part, require consideration of the capacity and impact on the road network. It also accords with the Framework where it states the potential impacts of development on transport networks should be addressed and schemes permitted where effects can be mitigated to an acceptable degree.
60. Policies ADPP1, ADPP6 and CS10 of the Core Strategy along with Policy K3 and K5 of the Local Transport Strategy do not relate directly to highway safety. Therefore, they weigh neither for nor against the scheme on this main issue.

### **Other Matters**

61. The fallback position does not have an on-site emergency plan. Traffic implications would be similar to the appeal scheme, as would the effects on the living conditions of the occupiers of the caravan. However, the appeal scheme would be more harmful in terms of effects on the character and appearance of the area given the appearance of the office building and scope for storage to take place in all other parts of the site. The fallback position also does not have the same policy conflict regarding sustainable construction. Moreover, as many of the ancillary buildings associated with the recycling use have already been removed, it is unlikely that the fallback use would return in the same way and with the same level of activity as present is less likely. Therefore, it would not be as harmful as the appeal scheme and attracts limited weight.
62. For the reasons above, the policies which are most important for determining the application, those discussed in the main issues, are broadly consistent with

the Framework and are not out-of-date. Therefore, paragraph 11d) of the Framework is not applicable to the scheme.

63. The Newlands appeal decision<sup>5</sup> gave permission for a B2 use beyond any settlement boundaries and contrary to development plan policies relating to accessibility and locational requirements. I do not have full details of that scheme, including the policies referred to, which are from a different development plan to this appeal, the scale of the scheme or its economic benefits. That scheme was for a B2 use, which this appeal no longer includes. Although new ones were also proposed, it included the conversion of some existing buildings, which the appeal before me does not. Furthermore, the Inspector in the Newlands scheme did not find harm from the other main issues and therefore differing factors weighed in the planning balance. While there are some similarities, the Newlands case is materially different to this scheme.
64. The appeal scheme is already, and would lead to further benefits, in terms of employment and to the wider economy. However, there is limited evidence of any specific need to be at the appeal site or that there are no other suitable locations to accommodate the elements of the scheme. Moreover, given the nature and scale of the development, economic benefits would be small. Landscaping would provide limited benefits to biodiversity.

### **Conclusion**

65. The development conflicts with the development plan when considered as a whole, and the Framework, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
66. Therefore, I conclude that the appeal should be dismissed.

*Stuart Willis*

INSPECTOR

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<sup>5</sup> APP/X0360/W/20/3252447

## **DOCUMENTS**

Exhibit RNF8 from Certificate of Lawful Development 20.01311

Council Costs Application

Amended Suggested Conditions

## **APPEARANCES**

### FOR THE APPELLANT:

Michael Ruddock                      Agent

Neil Stewart                          Appellant

### FOR THE COUNCIL:

Alice Attwood                        Senior Planning Officer

Catherine Ireland                   Planning Officer

Paul Goddard                        Highways Development Control Team Leader

Carolyn Richardson                Service Manager – Joint Emergency Planning Unit

### INTERESTED PARTIES:

Bryan Lyttle                          AWE Estate Planning and Development Lead

Eamonn Guilfoyle                   ONR Land Use Planning (Workstream Lead)

Chris Faulkner                      Chairman of Parish Council