



Appeal Decision

Hearing held on 26 November 2024

Site visit made on 26 November 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2024

Appeal Ref: APP/M1900/W/24/3345847

Chas Storer Ltd, Coopers Lane, Northaw, Potters Bar EN6 4NE

- 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 Chas Storer Ltd against the decision of Hertfordshire County Council.
 - The application Ref is 6/2021/1814/CN (CM0975).
 - The development proposed is the erection of a replacement storage building within an existing paper reclamation and recycling yard.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement storage building within an existing paper reclamation and recycling yard at Chas Storer Ltd, Coopers Lane, Northaw, Potters Bar EN6 4NE in accordance with the terms of the application, Ref 6/2021/1814/CN (CM0975), subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Chas Storer Ltd against Hertfordshire County Council. This application is the subject of a separate decision.

Preliminary Matters

3. The first reason for refusal listed in the Council's decision notice refers to the use of water bowzers to collect and export rainwater from the site and the associated additional heavy goods vehicles (HGV) trips. It is, however, now agreed that the proposed drainage strategy was not formally amended as such, and the appeal has been determined on that basis.

Main Issues

4. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - Whether the proposal would increase flood risk, having regard to surface water runoff; and
 - The effect of the proposal on groundwater and the quality of the public water supply.
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Reasons

Inappropriate development

5. The appeal site is located within the Green Belt. Paragraph 142 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 154 states that the construction of new buildings within the Green Belt should be regarded as inappropriate subject to several identified exceptions.
6. Policy SADM 34 of the Welwyn Hatfield Borough Council Local Plan (LP) states that within the Green Belt planning permission will be granted for development in accordance with national policies and other policies of the LP subject to criteria that are broadly consistent with the Framework.
7. The appellant considers that the proposed development is not inappropriate within the Green Belt as it falls within the exception set out at paragraph 154(g) of the Framework. This allows for the limited infilling or the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.
8. The Council contends that as the description of development is specifically for a replacement building on a small part of the site with no reference to associated redevelopment, the proposal does not fall within the exception at paragraph 154(g). However, in the absence of a definition in the development plan or the Framework, it is reasonable to consider 'redevelopment' to be the act of changing a site. It is therefore appropriate to conclude that the changing of the site through the construction of a new building after demolition of an existing one, as proposed, amounts to partial redevelopment.
9. The main parties agree that the site is previously developed land (PDL). Based on the information before me and having regard to the Frameworks definition of PDL I have reached the same finding. Therefore, my conclusions as to the effect on openness will determine whether the proposal falls within the paragraph 154(g) exception.
10. The proposed building would be materially larger than the one it would replace. Nonetheless, when compared to the cumulative impact of the building to be replaced combined with the external storage of waste bales on that part of the site, the proposal would be of a similar scale and massing. In addition, the proposed building would be seen in views from the adjoining Old Owens Sports Ground and Wood Green Timber Yard but would be no more prominent than the bales that are currently stored in that part of the site. Accordingly, I consider that, in the context of the current operations on the wider site, the proposed building would have no greater impact on the openness of the Green Belt, either spatially or visually, than the existing development.
11. The proposal would fall within the scope of development set out within the paragraph 154(g) exception, and would not, therefore, be inappropriate development within the Green Belt.
12. The Council has also considered the development against paragraph 154(d) of the Framework which advises that the replacement of a building is not inappropriate, provided the new building is in the same use and not materially

larger than the one it replaces. The parties agree that the appeal building is larger than the previous and therefore does not meet the 154(d) exception, and, given the evidence before me, I concur. Nonetheless, it remains that the development is not inappropriate by virtue of compliance with the exception set out at paragraph 154(g).

13. I therefore conclude that proposal would not be inappropriate development in the Green Belt and, as such, would not conflict with LP Policy SADM 34. Consequently, there is no need for the appellant to demonstrate that very special circumstances exist.

Drainage

14. The Framework requires that development should be made safe for its lifetime without increasing flood risk elsewhere. At paragraph 175, it states that major development, which includes waste development, should incorporate sustainable drainage systems which should, amongst other matters, take account of advice from the lead local flood authority (LLFA) and have appropriate minimum operational standards.
15. The submitted Flood Risk Assessment and Drainage Strategy states that surface water run off would be disposed of via a swale, providing sustainable drainage systems (SuDS) management and treatment, prior to outfall to an existing infiltration blanket under the concrete hardstanding. A flow control restricting the discharge rate also forms part of the proposed drainage strategy.
16. The LLFA asserts that in the absence of evidence of infiltration testing to relevant standards it has not been demonstrated that the proposed approach to drainage is viable. Consequently, the Council sought onsite testing of infiltration rates and, in the absence of such information, planning permission was refused due to the concerns set out in the first reason for refusal.
17. The proposed building would be larger than the one it would replace. However, the extent of the hardstanding, which currently covers the entire site, would remain unchanged. Accordingly, it is common ground that there would be no increase in surface water run-off due to the proposed development. Moreover, the flow control that is proposed in the drainage strategy would result in a reduction in the rate of runoff from the site.
18. I accept that the infiltration blanket has been in place for more than 50 years, and that its position, capacity, and condition is unknown. I also recognise that the infiltration testing carried out in 2016 was inconclusive and that the topographical survey undertaken at that time showed two gullies on site to be flooded. Nonetheless, the absence of any record of surface water flooding on the wider site and in the surrounding area, which I note is not in a flood zone or where there are identified drainage problems, strongly suggests that infiltration is feasible. Consequently, even though infiltration testing has not been carried out, the evidence before me supports the conclusion that the proposal would not lead to an increase in the risk of surface water flooding on the site, or materially increase flood risk elsewhere.
19. Overall, given the nature of the existing site and the absence of evidence of flood risk, I am satisfied that proportionate information has been provided and that the drainage strategy is feasible and appropriate for the proposed

development, subject to the approval of its details through an appropriately worded condition. I am also satisfied that the proposal does provide for the use of SuDS, given that the strategy includes a swale.

20. In conclusion, the proposal would not increase flood risk, on or off the site, due to surface water runoff. It would therefore accord with Policies 12 and 16 of the Hertfordshire Waste Core Strategy and Development Management Policies (CS) and LP Policy SADM 14, which require SuDS as a minimum, that development does not have a negative impact on the water environment, and that the risk of flooding is managed.

Groundwater

21. At the time that the FRA was prepared, prior to the submission of the planning application, the site fell some distance from Source Protection Zone 1 (SPZ1) of a ground water source of drinking water. However, following amendments, the application was determined on the basis that the site fell partially within SPZ1 and, therefore, within the zone closest to the extraction point, and in an area of highest risk to pollution.
22. Nonetheless, as I have found above, the proposal will not materially increase the extent of surface water run-off from the site and, hence, would not be likely to result in the mobilisation of contamination that is not already taking place. Furthermore, the proposed swale would filter and clear surface water runoff and, in that regard, will be a betterment to the existing situation. Therefore, in the absence of compelling evidence to the contrary, there is nothing before me to suggest that there is a material risk of contamination of groundwater.
23. Consequently, whilst it remains necessary to require that a hydrogeological risk assessment is undertaken to satisfy the Environment Agency's guidance¹, it is reasonable and appropriate to secure this through a planning condition. In reaching this conclusion I note that the Council have confirmed its agreement to this approach.
24. I therefore find, subject to a condition, that the proposal would not have an adverse effect on groundwater or the quality of the public water supply. As such, it would accord with CS Policy 16 which indicates that waste management proposals will be permitted where it is demonstrated that, amongst other things, they will not have a negative impact on groundwater resources.

Other Matters

25. Concerns have been raised by interested parties that the proposal would cause noise and disturbance to residents. Reference has also been made to highway safety issues and road damage, arising from the traffic generated by the proposal and from HGVs waiting on Coopers Lane to get onto the site. However, no substantive evidence has been presented that the proposal would result in an intensification in the use of the site that would lead to an increase in noise or vehicular movements. Furthermore, based on the evidence before me, it is apparent that the reconfiguration of the yard would increase the number of HGVs that would be able to park within the site. This would reduce

¹ The Environment Agency's approach to groundwater protection' (February 2018 Version 1.2)

the likelihood of vehicles having to wait on Coopers Lane, before entering the access road.

26. Reference has been made to several listed buildings on Coopers Lane. Upon request, the list descriptions were provided by the Council. Such listed buildings are some distance from the site and are separated by buildings and mature landscaping. Furthermore, as the proposal would not result in an intensification in operations on the site, there would not be an increase in the number of HGVs that would pass near to such buildings or their boundary walls. Accordingly, I am satisfied that the proposed development would not materially affect the way that such listed buildings are experienced or result in damage to their fabric.
27. A representation has been received suggesting an alternative to the proposed development. However, the role of the Inspector is to consider the planning merits of the appeal proposal which, for the reasons set out above, I find to be acceptable. As such the existence, or otherwise, of a suitable alternative form of development does not weigh against the proposal.
28. As I have found the proposal before me is not inappropriate development in the Green Belt, it is not necessary for me to consider the documents provided at the hearing relating to a replacement building on the adjoining Wood Green Timber Yard site.

Conditions

29. The parties provided me with suggested conditions, which I have reviewed in line with guidance and best practice.
30. I have imposed the standard time limit condition, and, in the interests of certainty, a condition that specifies that the development is carried out in accordance with approved plans.
31. To minimise the risks of surface water flooding I have imposed conditions to secure an updated drainage strategy and a mitigation plan to control surface water during the construction phase of the development. These are pre-commencement conditions because the satisfactory delivery of the matters covered in such conditions could be prejudiced if resolved later.
32. To protect a highly vulnerable groundwater resource, it is reasonable and appropriate to include a condition to secure a hydrogeological risk assessment and the implementation of its recommendations.
33. I have included a condition relating to HGV parking and manoeuvring to limit the extent of external storage within the site in the interests of preserving the openness of the Green Belt and to ensure that the operational benefits of the proposal are realised.
34. I consider it to be necessary to include a condition to ensure the protection of the boundary trees, to minimise the visual impact of the proposed development. I have, however, amended the wording to ensure that it is more precise and enforceable, and to reduce the likelihood of boundary trees being removed post approval.
35. I have not imposed the conditions requested by Welwyn and Hatfield Borough Council's Environmental Health and the Highway Authority, as the proposal

would not result in an intensification in the use of the site that would lead to an increase in noise or vehicular movements.

Conclusion

36. For the reasons given above I conclude that the appeal should be allowed.

Elaine Moulton

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Craig Curtis	CS Recycling
Adam Gostling	hgh Consulting
Dominic Lunn	hgh Consulting
Alan Brackley	JNP Group
Rodrigo Magno	JNP Group

FOR THE LOCAL PLANNING AUTHORITY:

Chas Dempster	Principle Planning Officer
Brian Owen	Development Management Team Leader
David Uncle	Senior Flood Risk Officer, Lead Local Flood Authority

DOCUMENTS SUBMITTED DURING THE HEARING

Bundle of plans and report relating to application reference 6/2020/3450/FULL at Wood Green Timber Yard, Coopers Lane, Northaw, Potters Bar EN6 4NE permitted by Welwyn Hatfield Borough Council, submitted by Hertfordshire County Council.

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 plans: 0800 Rev 2 Location Plan Block Plan; 0812 Rev 2 Site Sections Proposed; 0813 Rev 1 Building Plan and Roof Plan Proposed; 0811 Rev 3 Site Plan Proposed; 0814 Rev 1 Building Elevations Proposed; BTP-2105-04-Rev A Proposed Site Layout Vehicle Tracking for Loading HGVs; and BTP-2105-05-Rev A Proposed Site Layout Vehicle Tracking for Loading HGVs.
 - 3) Prior to the commencement of development, an updated drainage strategy for the replacement building shall be submitted to and approved in writing by the local planning authority. The drainage strategy shall:
 - i) Demonstrate how the drainage improvement is to be delivered on site.
 - ii) Include detailed drawings showing the design of each aspect of the new drainage system.
 - iii) Include completion drawings to show discharge location(s), the new swale, and measures for the interception and capture of potential pollutants.The development shall be carried out in accordance with the approved drainage strategy prior to the building hereby permitted being first brought into use.
 - 4) Prior to the commencement of development, a detailed mitigation plan for the control and management of surface water during the construction phase of the approved development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved mitigation plan.
 - 5) Prior to the commencement of the development, a hydrogeological risk assessment shall be undertaken in regard to runoff from the proposed building and submitted to the local planning authority for approval. The assessment shall have regard to the guidance set out in the 'Environment Agency's approach to ground water protection' (February 2018 Version 1.2), including position statements G10 (developments posing an unacceptable risk of pollution) and G12 (discharge of clean roof water to ground). The development shall be carried out in accordance with the approved HRA, and any actions/recommendations contained therein.
 - 6) The areas identified for HGV parking and manoeuvring on plans referenced BTP-2015-04-Rev A and BTP-2015-05-Rev A shall be retained in connection with the waste management operations at the site and shall not be used for storage of any materials that may reduce the space available for HGVs to manoeuvre within the site.
- No development shall take place until a scheme for the protection of the boundary trees adjoining the proposed swale (the tree protection plan) and the appropriate working methods (the Arboricultural statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction – Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the boundary trees shall be carried out as approved.