



Appeal Decisions

Site visit made on 7 January 2025

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2025

Appeal Ref: APP/J0405/C/22/3299949

Land at Chiltern View Nurseries, Wendover Road, Stoke Mandeville, Buckinghamshire, HP22 5GX.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr James Bone against an enforcement notice issued by Buckinghamshire Council
- The notice was issued on 28 April 2022.
- The breach of planning control as alleged in the notice is: Without planning permission, the material change of use of agricultural land to a mixed use of agriculture and external storage, including laying of hard standing and parking of vehicles.
- The requirements of the notice are to:
 1. Cease the use of the Land for external storage.
 2. Permanently remove all buildings and structures from the Land including, but not limited to, storage containers, porta cabins and lighting columns.
 3. Permanently remove all vehicles from the Land including, but not limited to, tractors, forklift trucks, cars and commercial vehicles.
 4. Permanently remove all items stored on the Land including, but not limited to, mobile homes, generators and lorry backs.
 5. Permanently remove all hardstanding from the Land and backfill any holes or excavations created by the removal of hard standing with appropriate soils.
 6. Remove all debris resulting from undertaking the steps above, from the Land.
 7. Restore the land to agricultural grazing land by the laying of top soil and the sowing of suitable seed.
- The periods for compliance with the requirements are: Step 1 - two months. Steps 2 – 6 inclusive - six months. Step 7 - twelve months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. It is directed that the enforcement notice is corrected by:
 - Step 1 of Part 5 is deleted and replaced with 'Cease the mixed use of the Land for agriculture and external storage.'
 - The deletion of the word 'Permanently' in Steps 2-4 (inclusive) of Section 5 of the Notice.

Step 5 of Section 5 is varied by replacing the word 'Permanently' with 'Except for the field track along the length of the north-western boundary of the Land'....
2. Subject to the corrections and variation, the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Preliminary Matters

3. Part of the Land identified in the Notice was the subject of planning application ref. 21/00538/APP. For the avoidance of doubt, the Council's subsequent refusal of that application for the 'Change of use of part of a field to form an Energy Generator, plant and tool depot (B8 open storage compound) and creation of hardstanding (retrospective)' after the service of the enforcement notice, is distinct from the appeal development which is limited to that described in the Notice.
4. On 12 December 2024 the Government published a revised version of the National Planning Policy Framework (the Framework). In the interests of fairness, the main parties were invited to make further submissions in response to the revisions. I have had regard to the submissions made in coming to my decision.

The Notice

5. Inspectors have a duty to try to get notices in order. If I consider the Notice is defective, I have broad powers under the provisions of s176(1)(a) of the Town and Country Planning Act 1990 as amended (the Act) to correct any defect, error or misdescription in the enforcement notice, or to vary the terms of the enforcement notice. I can only do so, however, where I am satisfied that this will not cause injustice to either the appellants or the Council. If the Notice cannot be corrected, I must quash the Notice.
6. Where a mixed use is alleged, the requirement in the enforcement notice should match that allegation. Cessation of a mixed use, which includes a lawful use within the mix, does not prevent a return to the last lawful use by reason of s 57(4). Accordingly, no injustice to the parties would be made if I correct the Notice in that manner.
7. Pursuant to the provisions in s181 of the Act, and the lasting effect of an enforcement notice unless a later planning permission is granted, the word 'permanently' in Steps 2-5 (inclusive) of Section 5 of the Notice is superfluous and should be removed.

The Appeal on Ground (A) and the Deemed Planning Application

Main Issues

8. The main issues are:
 - whether or not the location is suitable having regard to the Council's spatial strategy for the distribution of new development
 - the effect of the development on the character and appearance of the locality and wider landscape character.

Reasons

Locations for development

9. Policy S3 of the Vale of Aylesbury Local Plan [2021] (the VALP) states that new development in the countryside should be avoided. Policy D6 states that employment land provision will generally be supported in sustainable locations through (amongst other things) plan allocations, intensification or extension of

existing premises, or in a rural location where it is essential for that type of business.

10. The site lies close to an allocated employment area and is accessible from the road network. However, it does not form part of an employment allocation in the development plan.
11. Although located close to other businesses where ancillary storage takes place, there is little to demonstrate that the storage taking place when the Notice was served related to those businesses as an intensification or extension of their existing premises. From the evidence before me it appears that the use of the site was probably functionally independent of the nearby land uses.
12. The revised Framework states that planning decisions should recognise and address the specific locational requirements of different sectors, including the provision for storage operations at a variety of scales in accessible locations. Paragraph 89 of the revised Framework states that planning decisions should recognise that sites to meet business needs in rural areas may have to be found adjacent to or beyond existing settlements.
13. According to the appellant, the storage included items such as generator plant, vehicles, trailers and accommodation 'cubes'. However, there is little apparent or demonstrated necessity for such storage to be located in a rural area, nor has any link to inherently rural-based business enterprises been shown.
14. While the appellant asserts that open storage areas are not normally available in the urban area, there is little detailed assessment provided in evidence to demonstrate that to be the case locally. Moreover, if any such need does exist, there is little to show that it could not be met on existing sites or on allocated sites within the local development plan.
15. The appellant refers me to two areas of land close by, which were recently granted permission¹ for the parking of vehicles. However, in those instances, the parking need was associated with established businesses on adjacent sites. They are therefore distinct from the case circumstances before me.
16. For the above reasons, the development conflicts with Policies S3 and D6 of the VALP as they seek to direct new development to the most sustainable locations through the development plan procedures or where a specific need is demonstrated.

Character and appearance

17. The site lies in a rural location but on the edge of a cluster of development which includes a designated employment area, a block of residential flats, vehicle parks, waste management sites, and a horticultural nursery. The cluster is bordered by substantially undeveloped open fields on all sides save for a railway line immediately to the west. To the eastern side of Wendover Road, a ribbon of residential properties extends from the Stoke Mandeville settlement area to a point just beyond the main access road leading to the site.
18. The wider topography is gently undulating and comprises generally large arable fields with hedged boundaries. However, other ribbon and clustered developments

¹ 21/00777/APP and appeal APP/J0405/C/20/3262874 & 3262875

are typical within the landscape. The low-lying vale of the Southern Vale landscape character area is acknowledged to have its overriding rural character undermined by major transport corridors, large villages and the Aylesbury urban edge.

19. As a site previously shown by the Council to be substantially undeveloped, the Land would have contributed positively to the verdant rural landscape between the local settlements of Stoke Mandeville, Weston Turville and Wendover.
20. Aside from an authorised glasshouse of rural character and lightweight construction projecting towards Wendover Road, the prevailing pattern of commercial development is generally grouped alongside the railway line where it is set a good distance back from the roadway. In the locality, this maintains an important broad green corridor between those sites and the residential development immediately to the east of the road. In providing a degree of separation between development and continuity to the open rural landscape along the road, the predominant rural character is preserved.
21. However, unlike recently approved parking sites nearby, the site encroaches significantly into that corridor. Although the appellant highlights that the Land is bordered closely by a parking area to the rear and development at Chiltern View Nurseries to the side, the latter remains the subject of a separate action by the Council such that the status of much of the extent of building and storage there is currently unclear.
22. The removal of the vegetated surface on that part of the Land actively used for storage has caused a significant change in its appearance. Furthermore, as recognised by the appellant's Landscape and Visual Appraisal, the storage of items of the scale of HGV trailers has a negative impact on the locality.
23. To mitigate the adverse visual effects of the development, the appellant proposed a landscaped bund along the northeastern boundary of the site. The proposed 2m high earth bund would provide a solid screen to the site's surface infrastructure and items of more limited height stored on the land. However, as a contrived raised landform in an area acknowledged as flat by the appellant, it would not, in itself, be a characteristic element of the local landscape. Against the typical forms of enclosure including mixed native hedging or timber post and rail fencing, it would appear incongruous in its setting.
24. Even if limited to a conditioned height limit of 3m for stored items, the landscape screening of trailers, items of large construction plant or stored 'cubes', for example, would take a significant time to mature to effectively assimilate the use of the site. Evident from the visual impact of a parking area to the south, initial planting provides limited screening value. In this prominent location closer to the road, the harm to the character and appearance of the locality would therefore persist for an unduly long period before any landscape enhancement or attendant ecological benefits occurred.
25. Furthermore, a landscaping proposal referred to by the appellant in support of the planning application ref. 21/00538/APP includes palisade security fencing of a design and height which would not enhance the rural character of the locality.
26. I acknowledge that the proposed planting could provide some additional screening of low development set behind the site when viewed from Wendover Road.

However, given the overall height of buildings alongside the railway, any benefit therein would likely be limited.

27. For the above reasons, I find the development conflicts with Policies NE4 and BE2 of the VALP as they require development to minimise impact on visual amenity and prominence, respond to local distinctiveness, the natural qualities and the pattern of development in the area.

Other Matters

28. In support of the development the appellant highlights the use of the site by various companies employing people locally and nationwide. This includes storage associated with a Buckinghamshire business based elsewhere. The appellant indicates that that business employs 37 people locally and about 100 nationwide; clients include some government sectors.
29. Another business employing 44 people also formerly used the site. However, that business has since gone into administration. Nevertheless, as users of the site, those businesses demonstrate the economic and social benefits that have or could arise from the storage use. These are benefits of some magnitude that weigh in favour of the development.
30. I recognise that the appellant has assessed infiltration rates of the hardstanding, proposed surface water drainage management to achieve a greenfield run-off rate, and demonstrated that the site would not be at undue risk of flooding. Furthermore, the parties agree the site could be utilised without undue noise or light incursion. However, as requirements of local and/or national policy, these are not benefits in favour of the development.
31. The appellant's frustrations in relation to the time taken for the Council to determine the planning application relating to the site is not a matter for this appeal.

Planning Balance and Conclusion on Ground (a)

32. The storage area conflicts with the Council's adopted spatial strategy for locations of new development which seeks to restrict new development in the countryside. Additionally, the use of substantially undeveloped land has resulted in a significant adverse impact on the character and appearance of the locality.
33. The commercial storage use of the site would provide social and economic benefits; however, I do not consider that those benefits outweigh the totality of the identified harm. Consequently, the development conflicts with the development plan taken as a whole and there are no other considerations, including the revised Framework, that outweigh this conflict. For the reasons given, I conclude that the appeal on ground (a) should not be allowed.

Ground (f)

34. An appeal on ground (f) is that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.

35. The appellant highlights that the requirement in Step 5 of Section 5 of the Notice would effectively require the removal of an agricultural track which he claims was present on the Land for sufficient time prior to the service of the Notice to be exempt under s171B of the Act. Although this position is more akin to a ground (d) claim, I consider it here on the balance of the evidence presented.
36. The appellant's evidence shows a track leading from a dropped kerb on Wendover Road along the north-western boundary of the site in a series of street-view images dating back to 2010. The track is also plotted on plans submitted to the Council in association with application ref. 16/04073/APP. As a feature that pre-dated the alleged material change of use, and in the absence of any contrary evidence from the Council, or others, I find on the balance of probabilities that the track has subsisted for sufficient time to be immune from enforcement action.
37. For those reasons, the appeal on ground (f) succeeds insofar as it relates to the line of the track and the notice is varied accordingly.

Ground (g)

38. This ground of appeal is that the period for compliance specified in the notice falls short of what should reasonably be allowed. The appellant only seeks additional time for the removal of the lorry bodies screening the site to allow for the formation of a screening mound. However, as planning permission is to be refused for the storage area (and the mound), there is no basis to extend the period of 6 months for the removal of the lorry backs.
39. The periods for compliance otherwise appear reasonable in the case circumstances. They provide a balance between the private interests tied up in the use of the Land and securing expeditious compliance with the enforcement notice. The appeal on ground (g) therefore fails.

Conclusion

40. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and a variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

R Hitchcock

INSPECTOR