



Appeal Decisions

Site visit made on 4 February 2025

by **S Rawle BA (Hons) Dip TP Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal A Ref: APP/Q3115/W/24/3346476

Milton Pools Fishery, Great Milton, Oxford OX44 7JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Ray Green against the decision of South Oxfordshire District Council.
 - The application Ref P23/S2905/FUL, dated 29 August 2023, was refused by notice dated 18 December 2023.
 - The application sought planning permission for the erection of a single storey extension to form further living accom. Construction of new storage building and alteration to existing storage building for use with recreational fishing without complying with a condition attached to planning permission Ref P02/N0682, dated 11 November 2002.
 - The condition in dispute is No 3 which states that: The new and refurbished buildings hereby approved shall be used solely in connection with the recreational fishing use of the site and shall not be used for any other purpose.
 - The reason given for the condition is: To ensure the details of the development are satisfactory in accordance with Policy G1 of the adopted South Oxfordshire Local Plan.
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Appeal B Ref: APP/Q3115/W/24/3346492

Milton Pools Fishery, Great Milton, Oxford, OX44 7JE

- 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 Ray Green against the decision of South Oxfordshire District Council.
 - The application Ref is P23/S2906/FUL.
 - The development proposed is the erection of a building for office use.
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Appeal C Ref: APP/Q3115/W/24/3346495

Milton Pools Fishery, Great Milton, Oxford OX44 7JE

- 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 Ray Green against the decision of South Oxfordshire District Council.
 - The application Ref is P23/S2902/FUL.
 - The development proposed is the erection of a single storey extension and its use for storage.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the erection of a single storey extension to form further living accom. Construction of new storage building and alteration to existing storage building for use with recreational fishing

at Milton Pools Fishery, Great Milton, Oxford, OX44 7JE in accordance with the application Ref P23/S2905/FUL, without compliance with condition number 3 previously imposed on planning permission Ref P02/N0682 dated 11 November 2002 and subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan – MPF1; Site Plan dated October 2022; and Unit 1 CMP-001 dated 23 Nov 2022.
2. With the exception of Unit 1 shown on the approved Site Plan dated October 2022 which shall be used solely for storage purposes the new and refurbished buildings hereby approved shall be used solely in connection with the recreational fishing use of the site and shall not be used for any other purpose.
3. The storage use hereby approved shall be limited to the confines of Unit 1 shown on the approved Site Plan dated October 2022 and no storage shall take place outside of any building.
4. Within two months of the date of this decision details of secure cycle storage facilities shall be submitted for approval in writing by the local planning authority. The development shall be completed in accordance with the approved details within two months of the details being approved and shall be retained in that form thereafter.

Appeal B

2. The appeal is allowed and planning permission is granted for the erection of a building for office use at Milton Pools Fishery, Great Milton, Oxford, OX44 7JE in accordance with the terms of the application, Ref P23/S2906/FUL, subject to the following conditions:
 1. The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan – MPF1; Site Plan dated October 2022; and Unit 4 CMP-001 dated 7 Nov 2022.
 2. Notwithstanding the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended) or any Orders revoking or re-enacting or amending those Orders with or without modification, Unit 4 as shown on the Site Plan dated October 2022 shall be used solely for Class E(g)(i) office use and for no other purpose.
 3. Within two months of the date of this decision details of secure cycle storage facilities shall be submitted for approval in writing by the local planning authority. The development shall be completed in accordance with the approved details within two months of the details being approved and shall be retained in that form thereafter.

Appeal C

3. The appeal is allowed and planning permission is granted for the erection of a single storey extension and its use for storage at Milton Pools Fishery, Great Milton, Oxford, OX44 7JE in accordance with the terms of the application, Ref P23/S2902/FUL, subject to the following conditions:

1. The development hereby permitted shall be carried out in accordance with drawing nos: Location Plan – MPF1; Site Plan dated October 2022; Unit 2 CMP-001 and BLO-001 dated October 2022.
2. The commercial storage use hereby approved shall be limited to the confines of Unit 2 shown on the approved Site Plan dated October 2022 and no storage shall take place outside of any building.
3. Within two months of the date of this decision details of secure cycle storage facilities shall be submitted for approval in writing by the local planning authority. The development shall be completed in accordance with the approved details within two months of the details being approved and shall be retained in that form thereafter.

Preliminary Matters

4. As set out above there are three appeals on this site. They all relate to proposals for a business type use, albeit one involves a change of use of an existing building for storage (Unit 1), one involves an extension for storage use (Unit 2) and the other one involves an office building (Unit 4). I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with all three schemes together, except where otherwise indicated.
5. Moreover, the description of development in relation to each appeal included details that are not acts of development and consequently it has been necessary to amend the descriptions accordingly.

Background

6. In relation to appeal A, planning permission was granted in 2002 which among other things granted planning permission for new and refurbished buildings for use with recreational fishing and a condition was imposed which specified that these buildings were to be used solely in connection with recreational fishing and not for any other purpose. Unit 1 has already had a change of use and is now used for storage. Appeal A proposes the continued use of Unit 1 for a commercial storage use.
7. Likewise, the extension for storage use and the erection of the office building have already been carried out and I have determined the appeals on that basis.

Main Issues

8. The main issues in relation to appeal A are whether the retention of disputed condition 3 is necessary having regard to:
 - The effect on the character and appearance of the area; and
 - whether or not the proposed change of use of the building would result in development being located in a suitable location having particular regard to local and national policies that deal with sustainability and accessibility.
9. The main issues in relation to appeals B and C are:
 - The effect of each development on the character and appearance of the area; and

- Whether or not the development in each case is in a suitable location having particular regard to local and national policies that deal with sustainability and accessibility; and
- Whether or not the buildings in each case comply with development plan and national policies that deal with energy efficiency, sustainable design and carbon reduction measures.

Reasons

Character and appearance

10. The appeal site comprises a number of fishing lakes, which are currently used for recreational fishing, ancillary buildings, a bungalow, areas of hardstanding, car parking and some business uses which are subject to the appeal.
11. The appeal site is located close to the M40 and the A329 and consequently traffic noise is apparent on site. However, there is a sense of calm spaciousness which derives from the attractive fishing lakes and the low-key nature of the existing buildings. This makes a significant contribution to the character and appearance of the area.

Appeal A

12. Appeal A relates to the change of use of a building (Unit 1) that was formerly used for storage ancillary to the main recreational use. However, it is now used to store dried flowers. As the building is already there, is of an appropriate design in terms of scale and appearance and is in keeping with other existing buildings on the site the Council accept that it accords with DES1, DES2, DES7 and DES8 of the South Oxfordshire Local Plan 2011-2034 adopted December 2020 (SOLP) which among other things seek to deliver high quality development that uses land efficiently while respecting the existing landscape character, enhances local character and promotes sustainable design. I agree with that analysis.
13. However, the Council considers that the introduction of commercial activity on the site together with the chance that there will be a need for replacement buildings to provide storage for the fishing activity would be detrimental to the visual amenity and rural character. I do not agree. The storage building is modest in size and scale and according to the appellant's Transport Statement the traffic generated by this existing building and the other existing commercial storage use (Unit 2, subject to Appeal C) would generate a maximum of 6 two-way vehicle movements. Bearing in mind the existing use of the site for recreational fishing, even taking account of the existing office use (Unit 4, subject to Appeal B), such modest traffic generation does not result in such a level of commercial activity as to unacceptably harm the visual amenity or rural character of the area.
14. In relation to the requirement for additional storage to serve the existing recreational fishing use, I have seen no evidence that the use of Unit 1 for commercial storage use has displaced an existing storage need linked to fishing which requires replacing. Further, the appellant has confirmed that the existing toilet facilities will remain as existing and will not be lost as a result of the continued use of the building for storage.
15. I therefore conclude that in relation to Unit 1, retention of condition 3 in its current form is not necessary to ensure that the development does not harm the character

and appearance of the area. As a result, the development does not conflict with Policies STRAT1, EMP10 and ENV1 of the SOLP which among other things seeks to protect and enhance the countryside from harmful development and supports the diversification of land based rural businesses.

Appeal B

16. Appeal B relates to a modest office building in unit 4. The Council acknowledge that the building is single storey and is of a scale, design and appearance that is similar and in keeping with the other existing buildings on the appeal site and by itself sits reasonably well on the site. I agree. The proposal would appear entirely compatible with its surroundings and would not appear jarring or incongruous within this setting. I also note that the Council accept that because of the passage of time that the building has been on site it appears to be lawful. However, even if that was not the case, the building itself would not unacceptably harm the character and appearance of the area.
17. Again, the Council considers that the introduction of the commercial activity on the site in combination with the other commercial uses is detrimental to the visual amenity and rural character. I do not agree. As outlined above, the office unit is modest in size and scale and according to the appellant's Transport Statement the traffic generated by this use and another office use in unit 3 which the appellant confirm they will retain as ancillary accommodation for the recreational fishery use, has a total of 38 two way movements, which would reduce to 25 movements if the traffic generated by unit 3 is excluded. Like my finding above, bearing in mind the existing use of the site for recreational fishing, even taking account of all the existing uses currently on the site, this level of activity and traffic generation would not unacceptably harm the visual amenity or rural character of the area.
18. I therefore conclude that in relation to Unit 4, the development does not harm the character and appearance of the area. As a result, it does not conflict with Policies STRAT1, EMP10 and ENV1 of the SOLP which among other things seeks to protect and enhance the countryside from harmful development and supports the diversification of land based rural businesses.

Appeal C

19. Appeal C relates to an existing modest extension which is used for storage (unit 4). The Council acknowledge that the building is timber clad and in keeping with the design and scale of the other existing buildings on the appeal site and by itself sits reasonably well on the site. I agree. The proposal would appear entirely compatible with its surroundings and would not appear jarring or incongruous within this setting. I also note that the Council accept that because of the passage of time that the building has been on site it appears to be lawful. However, even if that was not the case, the extension itself would not unacceptably harm the character and appearance of the area.
20. Again, the Council considers that the introduction of the commercial activity on the site in combination with the other commercial uses is detrimental to the visual amenity and rural character. I do not agree. As outlined above, the extension is modest in size and scale and according to the appellant's Transport Statement, the traffic generated by this existing building and the other existing commercial storage use (Unit 1, subject to Appeal A) would generate a maximum of 6 two-way vehicle movements. Bearing in mind the existing use of the site for recreational fishing,

even taking account of the existing office use (Unit 4, subject to Appeal B), such modest traffic generation or other activity generated by the building does not result in such a level of commercial activity as to unacceptably harm the visual amenity or rural character of the area.

21. I therefore conclude that in relation to Unit 2, the development does not harm the character and appearance of the area. As a result, it does not conflict with Policies STRAT1, EMP10 and ENV1 of the SOLP which among other things seeks to protect and enhance the countryside from harmful development and supports the diversification of land based rural businesses.

Suitable Location

22. Given that this main issue is relevant to all of the developments subject of the appeals I have dealt with this under one head as I am able to reach a view on all three.
23. The appeal site is located in a countryside location, outside of any settlement. There is no pedestrian footway along the access track which is unlit. Consequently, it is unlikely that many if any pedestrians walk to and from the site because the nearest bus-stop or settlement is so far away and the route is unappealing. For the same reason, there is limited opportunity to access public transport or local facilities. Consequently, anyone working or visiting the commercial uses would be reliant on private vehicles. However, the National Planning Policy Framework (the Framework), sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account in decision making.
24. This is the case here. This is not a greenfield site where development is proposed for the first time. The appeal site is previously developed land currently used for recreational fishing. The Framework seeks to ensure that such land is used as much as possible.
25. Moreover, as outlined above the Council accept that because of the passage of time the new buildings on site appear to be lawful. So, the disagreement between the main parties in relation to Appeal B and C seems to be about what they should be used for rather than whether the building should be on the site. Similarly, for Appeal A, this involves the change of use of an existing building which is no longer required for storage connected to recreational fishing and so has been used for storing dried flowers.
26. Given that there doesn't seem to be a dispute about the existence of the buildings themselves, I note that both the Framework and EMP 10 of SOLP support the conversion or re-use of existing buildings. Consequently, I am satisfied that in these cases, given the buildings are already on the site, there is a suitable opportunity to use them for appropriate commercial uses which has the added benefit of using previously developed land.
27. The introduction of the commercial uses at the appeal site inevitably increases the number of vehicles that go to and from the appeal site. However, the appeal site is located in a very convenient location for vehicular access being adjacent to the M40 with vehicular access being provided via an access track onto the A329.

28. At the time of my site visit the access track which links Milton Pools to the A329 was in a poor condition and in parts single width. However, of significant importance in these cases is that the highways authority objected to a previous application on vehicular access grounds, noting the length of the narrow track with limited passing opportunities which didn't support two-way traffic movements at the access onto the A329. Consequently, they considered it would result in a risk to highway safety and this led to a reason for refusal. However, having now considered the appellant's Transport Statement they consider that access matters are acceptable.
29. Bearing in mind the lack of any evidence to the contrary, I accept that the developments would not result in any highway safety concerns or any residual cumulative impacts on the road network. Consequently, the developments should not be prevented on highway grounds and overall, the developments provide for a safe and convenient access to the highway network for vehicles visiting the appeal site.
30. So, overall, although I accept that users of the developments would be reliant on private transport to access the site, even taking account of all three commercial uses, the developments are modest in scale and as outlined above would not result in a significant level of additional vehicle movements. Further, the developments are within existing buildings and take advantage of previously developed land. Consequently, I do not consider that the developments would be at such odds with sustainable development principles as to justify dismissing the appeals moreover, there are many factors that weigh in favour of the developments given the efficient use of previously developed land.
31. I therefore conclude that both individually and collectively the appeal site is a suitable location for the development having particular regard to local and national policies that deal with sustainability and accessibility. Consequently, the developments are not at odds with Policies STRAT1, EMP10, TRANS2 and TRANS5 of the SOLP which among other things highlight that proposals will be assessed using national policy and guidance and the whole of the development plan, promotes development that supports the sustainable growth and expansion of all types of business and enterprises in rural areas through the conversion of existing buildings, promotes the sustainable diversification of land-based businesses, promotes sustainable transport and accessibility and sets out that development should provide for safe and convenient access for all users to the highway network.

Energy efficiency, sustainable design and carbon reduction

32. I note that this has only been raised by the Council in relation to Appeals B and C. I assume that is because Appeal A is in relation to a change of use of an existing building. However, as set out above, the Council accept that due to the passage of time the buildings subject to Appeals B and C appear to be lawful. Consequently, it could be argued that it is reasonable to adopt a similar approach as the developments are not new. Rather, they have been on site for some time. Both DES7 and DES8 of SOLP refer specifically to new development.
33. Policy DES10 deals with carbon reduction and the explanatory text in support of the policy sets out that in order to address the commitment of the Council to become a carbon neutral district by 2030, it is essential that planning policy limits carbon

dioxide emissions from new development. Consequently, again reading the policy together with the explanatory text this policy relates to new development.

34. That said, I accept that the reason that the relevant buildings do not represent new development is because there has been a breach of planning control which I have taken into account as a material consideration and such action should not justify harmful development at the appeal site.
35. That said, the developments comply with DES7 of SOLP as they make efficient use of previously developed land. In relation to DES8 and DES10 of SOLP, based on the available evidence I am not satisfied that the developments do satisfactorily minimise the carbon and energy impacts or meet the BREEAM excellent standard. However, given that the buildings are already there, I afford this issue limited weight.
36. I therefore conclude that although the developments accord with DES7 of SOLP and make efficient use of resources, overall, they do not comply with development plan and national policies that deal with energy efficiency, sustainable design and carbon reduction measures. Consequently, they conflict with policies DES8 and DES10 of SOLP which among other things promote sustainable design to minimise carbon and energy impacts. However, as explained due to the particular circumstances, I afford this issue limited weight in the determination of the appeal.

Planning Balance

37. As outlined, there are many factors that weigh in favour of the developments. These include the fact that they result in the efficient use of previously developed land. I afford these benefits moderate weight. On the other hand, I have found that the proposal does not comply with development plan and national policies that deal with energy efficiency. However, for the reasons set out above I have afforded that matter limited weight. It follows that the benefits of the developments outweigh those factors that weigh against the proposal which means the appeals should succeed.

Conditions

Appeal A

38. By allowing Appeal A, a new planning permission is created. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect.
39. As the development has already been undertaken it is unnecessary for me to attach the commencement of development condition. However, a condition is needed to secure compliance with the approved plans, for the avoidance of doubt and in the interests of proper planning.
40. Moreover, a condition to ensure that restrictions are only removed in relation to Unit 1 is required in the interests of proper planning. For the avoidance of doubt the new and refurbished buildings mentioned in condition 2 of Appeal A are those that were approved under the original application under reference P02/N0682, dated 11 November 2002.

41. A condition is required to ensure that storage cannot take place outside of the building in the interests of the character and appearance of the area. In the interests of sustainable transport, it is necessary to impose a condition in relation to cycle storage facilities.

Appeal B

42. As the development has already been undertaken it is unnecessary for me to attach the commencement of development condition. However, a condition is needed to secure compliance with the approved plans, for the avoidance of doubt and in the interests of proper planning. A condition is required to ensure that only office use can be undertaken in the building in the interests of proper planning. In the interests of sustainable transport, it is necessary to impose a condition in relation to cycle storage facilities.

Appeal C

43. As the development has already been undertaken it is unnecessary for me to attach the commencement of development condition. However, a condition is needed to secure compliance with the approved plans, for the avoidance of doubt and in the interests of proper planning. Moreover, a condition is required to ensure that storage cannot take place outside the building in the interests of the character and appearance of the area. In the interests of sustainable transport, it is necessary to impose a condition in relation to cycle storage facilities.

Conclusion

44. For the reasons given above the appeals should be allowed.

S Rawle

INSPECTOR