



Appeal Decision

Site visit made on 11 February 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 February 2025

Appeal Ref: APP/U2750/W/24/3351931

Jubilee House, B1257, Stokesley TS9 5JQ

- 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 Sam Mason against the decision of North Yorkshire Council.
 - The application reference is ZB24/00421/FUL.
 - The development is retrospective part change of use of residential rear garden into mixed use as residential and part commercial car storage.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Sam Mason against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2024. I am satisfied that the substance of the Framework regarding the main issues of the case have not changed. I have taken the revised Framework into account, and I am satisfied that this has not prejudiced either party.

Main Issues

4. The main issues are:
 - the principle of the development with regard to its location;
 - the effects of the development on the character and appearance of the area; and
 - whether suitable biodiversity net gain has been demonstrated.

Reasons

Principle of Development

5. The appeal site lies within the countryside, based on the definition in Policy S5 of the 2022 adopted Hambleton Local Plan (the Local Plan). Consequently, it falls to be considered under the terms of Policy EG7 of the Local Plan. This policy recognises that the expansion and creation of businesses in the countryside may

be appropriate and supports employment generating development in such locations where it involves one of the four listed circumstances.

6. The appellant refers to the permission granted for a workshop and stables, and that the development does not require any extension or alteration to this area. The Council's evidence describes the building as a domestic workshop rather than one used for commercial purposes. While criterion b of Policy EG7 allows for the re-use of buildings, that is not what is proposed here. Nor does the development involve a new building. The development does not therefore satisfy the circumstances in criteria b and c of Policy EG7.
7. Without the storage space provided by the appeal site, the appellant states that they would have to attend auctions more frequently as there is a lack of space at their main business premises at Portrack Lane in Stockton. However, no meaningful evidence is before me to clearly establish that the appellant's existing site cannot physically accommodate the number of vehicles that comprise this development.
8. I note that the appellant returns from car auctions after working hours and that they contend it is not reasonable to travel from their Stockton site due to the distance and late working hours. However, there is not a large distance between the appeal site and the main business premises in Stockton, or from the nearby Stokesley Business Park which is in a market town as defined in the settlement hierarchy in Local Plan Policy S3. I am also mindful that the appellant travels to auction sites throughout the country and that the Portrack Lane site is described as meeting their target clients, which to my mind indicates a location well placed to meet their business needs.
9. The use of the appeal site may enable some reduction in the number of journeys undertaken by the appellant. However, given the nature of the business as described in evidence, any reduction is unlikely to be significant.
10. It may be the case that it makes no business sense to pay additional expense for a small commercial site nearby, based on the 'stop and go' operation and the appellant's existing commercial unit on Portrack Lane. However, this is not supported by any substantive evidence of the kind indicated in the supporting text to the policy.
11. I appreciate the appellant's reasons for wanting to use the appeal site for the storage of vehicles. However, in my view, based on the submitted evidence, they do not equate to a necessity for a countryside location having regard to the requirements of Policy EG7 of the Local Plan.
12. The appellant undertook a site search for suitable land or premises. This concluded that none of the identified units are suitable for the development.
13. However, no clear justification has been provided for restricting the area of search to within the vicinity of the appellant's home and Stokesley. The Council's evidence identifies two other nearby industrial areas within a reasonable distance of the appeal site, one of which is where the appellant has their commercial unit. Yet these do not appear to have been included in the site search.
14. The search criteria requiring a short lease seems to be restrictive. The appellant's contention that a long lease period is not a viable option when they already

possess a car sales pitch and premise, or concern about the current economic climate are not robustly justified by any clear evidence about the effect on the business.

15. Furthermore, there is no information on the period over which the site search took place. Consequently, it is not possible to know if the identified absence of suitable sites accurately reflects a true lack of supply.
16. I am not therefore persuaded that there are no suitable sites available in nearby settlements or employment sites.
17. Overall, therefore, it has not been demonstrated that there is an operational need for the development that cannot physically or reasonably be accommodated within the curtilage of the appellant's existing site or that the development specifically requires a countryside location. I cannot therefore conclude that the development satisfies the circumstances in criteria a and d of Policy EG7.
18. Chapter six of the Framework and local planning policies are supportive of proposals that help to build a strong competitive economy. This includes Policies S3, S5 and EG7 of the Local Plan. However, the support offered by national and local planning policies does not mean that all such developments will be acceptable.
19. Paragraph 89 of the Framework recognises that in rural areas, sites to meet local business and community needs may have to be found adjacent to or beyond existing settlements. Policy EG7 aims to promote a vibrant rural economy, and to this end acknowledges that businesses outside of existing settlements may be appropriate. Nevertheless, Policy EG7 requires that a justification is given for an employment generating development beyond a settlement, which to my mind has not been provided in this case.
20. I therefore conclude that the principle of the proposal with regard to its location is not acceptable as, without sufficiently compelling reason to depart therefrom, it would undermine the Council's development strategy. As such, it would conflict with the requirements of Policy EG7 of the Local Plan, as summarised above.
21. I note the appellant's assertion that, in the context of Policy EG7, the site is not a true representation of employment generating development. In my view, even if the development has not of itself resulted in employment generation, it is nevertheless a commercial activity, and it forms part of the business undertaken by the appellant. I am therefore satisfied that it falls within the remit of Policy EG7. However, even if this is not the case, the development still falls to be considered against other relevant development plan policies, including those relating to the character and appearance of the area, which I address below.

Character and Appearance

22. The appeal site is located within a gently rolling agricultural landscape characterised by open fields enclosed by hedgerows. Scattered groups of farm buildings, dwellings and villages are present. Although not far from Stokesley, the area in which the site is located has a predominantly rural character.
23. The appeal site is part of a fairly extensive area of land associated with the dwelling at Jubilee House. During my site visit, several vehicles were parked at the appeal site.

24. The appeal site is generally screened from public vantage points in the area including the road and nearby public right of way by the fencing and vegetation along the northern boundary of the wider site, the adjacent metal clad building and the dwelling. Glimpsed views of the appeal site and the stored vehicles are possible through the gaps between the dwelling and the boundary fence and with the neighbouring property. In such views, the stored vehicles are mainly seen against the backdrop of the metal clad building. Visibility from the surrounding area is therefore relatively limited. However, a lack of visibility does not necessarily equate to lack of harm.
25. The appellant states that no vehicles are sold from the site. I appreciate the Council's view on this point, but the development that is the subject of this appeal is the storage of vehicles. Conditions could be imposed should the development be permitted, that would restrict the use to storage of vehicles and the number of vehicles stored at the site at any one time. Nonetheless, there would be some noise and general activity associated with the additional vehicles being delivered to the site on what is described as a 3.5 tonne trailer wagon, and then removed.
26. The appellant argues that many farms and rural dwellings will have multiple cars and other vehicles, often parked visibly in large driveways or parking areas, and the use of the appeal site is no different. However, using the appeal site to store vehicles is different from parking. While noting the timescales in the appellant's evidence, a stored car could nevertheless be left unmoved for long periods of time and as such the space would be intensively used as frequent access would not be necessary. Vehicles that are parked are generally left for shorter periods such as overnight before being used to travel to work or leisure activities or to run errands. As such, the site use has a more permanent effect on the character and appearance of the area.
27. Overall, the landscape and visual effects of the development on the wider area are limited. Nevertheless, the development results in the site becoming more commercial in character and appearance, giving it a more urbanised form. This is inconsistent with its rural setting. Consequently, I conclude that there would be some modest localised harm to the character and appearance of the area.
28. The development therefore conflicts with Policies E1 and E7 of the Local Plan which, amongst other matters, seek to ensure development integrates successfully with its surroundings and protects and enhances the area's distinctive landscapes. There would also be conflict with the Framework where it states that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside amongst other considerations.

Biodiversity Net Gain

29. Notwithstanding that the application was submitted prior to the mandatory BNG requirements coming into effect, Policy E3 of the Local Plan states that all development will be expected to demonstrate a delivery of a net gain for biodiversity.
30. No ecological survey or baseline assessment was submitted with the application. However, the submitted plans show an area of landscaping outside of the appeal site boundary but on land under the appellant's control, shown by a blue line on the location plan and proposed site plan. The landscaping comprises an area laid to grass, three silver birch trees and one laurel tree and leylandii along two of the

boundaries. A landscape maintenance report has also been provided. I observed at my visit that the identified landscaping has at least in part been implemented.

31. The Council accepts that there is likely to be limited biodiversity value within the site at present. This is supported by the appellant's evidence where it is identified that the site is all hard standing and no adjacent habitats are affected¹.
32. At my visit I noted that the appeal site appears to be of low biodiversity value. Policy E3 does not include a minimum figure for biodiversity net gain. As such, based on my observations and the submitted evidence, it appears that enhancements to meet the policy requirement could be delivered within land subject to the appellant's control.
33. When factoring in the nature and extent of the likely habitat losses and gains, I am satisfied that a biodiversity net gain would be achievable that would be a proportionate response to the aims of the policy and the scale of the development. The identified landscaping measures could be secured by a condition.
34. I therefore conclude that suitable biodiversity net gain has been demonstrated. Accordingly, the development accords with the requirements of Policy E3 of the Local Plan.

Other Matters

35. The appellant states that there were no objections to the application. Nonetheless, the absence of objection does not in itself render the scheme acceptable. It may well be the case that there is no harm to the living conditions of nearby residents or highway safety. However, a lack of harm carries neutral weight in the planning balance. None of these matters outweigh the identified harm.

Conclusion

36. I find that suitable provision for biodiversity net gain has been demonstrated. However, the proposal would conflict with the development strategy for the area and there is some modest harm to the character and appearance of the area.
37. The Framework states that local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. While there would be benefits to the appellant arising from the use of the site for the storage of vehicles, such as saving time and costs, and a potential for some reduction in transport journeys, these matters are not sufficient to outweigh the conflict with the development plan taken as a whole.
38. Therefore, for the reasons given, the appeal should be dismissed.

F Wilkinson

INSPECTOR

¹ SEP Ecology, 31/07/2024