



Appeal Decision

Site visit made on 5 March 2025

by **C Carpenter BA MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31st March 2025

Appeal Ref: APP/C1570/W/24/3354288

Land known as 7 Acres, Warish Hall Farm, Parsonage Road, Takeley CM22 6PU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jarrod Spencer (Weston Homes Plc) against the decision of Uttlesford District Council.
 - The application Ref is UTT/24/0741/FUL.
 - The application sought planning permission for erection of 4 no. industrial/flexible employment (Use Class E) buildings with associated landscaping and parking at land known as 7 Acres, Warish Hall Farm, Parsonage Road, Takeley without complying with a condition attached to planning permission Ref UTT/22/2744/FUL, dated 28 June 2023.
 - The condition in dispute is No 28 which states that: "Notwithstanding the provisions of the Town & Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class [sic] in any statutory instrument revoking or re-enacting that Order, the use of the premises shall be restricted to any industrial processes (Use Class E(g); and/or Use Class E(e) purposes only and shall not be used for any other purpose including any purpose within Class E of within [sic] the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any equivalent class in any order that may replace it), unless approval is obtained to a variation of this condition through the submission of a planning application. No more than 600m² of floorspace shall be allocated to Class E(e) as part of the development."
 - The reason given for the condition is: "In order to protect employment floorspace, given the employment demand in the district and to enable the Local Planning Authority to properly consider and control the uses to protect the amenity of nearby residents."
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Decision

1. The appeal is allowed and planning permission is granted for erection of 4 no. industrial/flexible employment buildings with associated landscaping and parking at Land known as 7 Acres, Warish Hall Farm, Parsonage Road, Takeley in accordance with the application Ref UTT/24/0741/FUL, without compliance with condition numbers 1 to 30 previously imposed on planning permission Ref UDD/22/2744/FUL dated 28 June 2023 and subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Jarrod Spencer (Weston Homes Plc) against Uttlesford District Council. This application is the subject of a separate decision.

Preliminary Matters

3. For consistency, the site address in the banner heading and my decision above is the same as that used in permission Ref UTT/22/2744/FUL.

4. A non-material amendment to the description of development in permission Ref UTT/22/2744/FUL has been approved under Section 96a of the Town and Country Planning Act 1990¹. I have used this amended description in my decision above.
5. The appellant has submitted an additional drawing with the appeal that shows swept path analysis for Units 11 and 12. This provides additional information about but does not fundamentally alter the proposal that is the subject of this appeal. I am satisfied interested parties have had an opportunity to comment on this drawing, and there would be no injustice if I were to take it into account.
6. The National Planning Policy Framework (the Framework) was updated in December 2024. However, insofar as the contents are relevant to this appeal, the Framework has not changed. Therefore, I am satisfied no party would be disadvantaged by not having the opportunity to comment on the revised Framework.

Background and Main Issues

7. The development granted permission under application Ref UTT/22/2744/FUL has commenced and Units 11 and 12 have been built. The appeal seeks to vary the disputed condition to allow Units 11 and 12 to be used for purposes within Use Class B8 (storage and distribution) in addition to the permitted Class E uses.
8. The Council refused the application on the grounds of cumulative impacts of Heavy Goods Vehicles (HGVs) on the highway network and noise and disturbance to neighbouring occupiers. The Council has decided not to defend its reasons for refusal through the appeal, but similar concerns have been raised by interested parties. Consequently, I shall address them as main issues.
9. The main issues are therefore the effect of the proposal on:
 - highway safety, with particular reference to the impact of HGVs on the highway network; and
 - the living conditions of neighbouring occupiers, with particular reference to noise and disturbance.

Reasons

Highway safety

10. According to the appellant's Technical Note (by Motion, dated 18 March 2024) (TN), Class B8 uses at the appeal site would be likely to increase the number of larger vehicles but reduce the overall volume of traffic generated by about a third compared to Class E uses. The difference is calculated on the assumption that the whole site would be in B8 use. However, B8 use would be restricted to only two units were I to allow the appeal. On the evidence before me, the number of additional two-way HGV movements generated by two B8 units would be in the order of two to six daily. The TN states this level of increase in HGV movements would be more than compensated for by the reduction in other traffic, with no adverse impacts on either traffic levels or parking on the site.

¹ Application Ref UTT/24/0651/NMA

11. Traffic associated with committed developments nearby was included in the original modelling for the overall development, so is also factored into the calculations above. The performance of and anticipated impact on nearby junctions was also assessed as part of the originally permitted development.
12. National Highways, which is responsible for the A120 and M11, has reviewed the appellant's evidence and raised no objection to the proposal, concluding it would be unlikely to have a severe effect on the Strategic Road Network (SRN). The County Highway Authority has also raised no concern about HGV access from Parsonage Road. There is no pertinent evidence of collisions on this stretch of Parsonage Road. I note no restriction on the type of vehicle that could access the development was placed on the original permission.
13. Taking these considerations together, along with the modest scale of the appeal proposal, I am satisfied there would be no severe cumulative impact on the highway network. I also find further detailed assessment of anticipated impacts on junctions with the SRN, the level of HGV movements along Parsonage Road, or access to Stansted airport would not be warranted or proportionate.
14. Turning to manoeuvres within the appeal site, the swept path diagrams before me demonstrate the movements of a 12-metre rigid truck and show how a larger HGV articulated vehicle could directly access Units 11 and 12. There would be dedicated pedestrian and cycle routes and crossings, with raised tables to help reduce traffic speeds. During my visit, I observed such measures already in use near the new business units and at the junction with Parsonage Road, which I understand to be a walk-to-school route. Bearing in mind the overall quantum of traffic would be reduced, I am satisfied on this evidence that pedestrian and cycle safety, including on routes to the new Medical Centre, would not be compromised by the modest anticipated increase in HGV movements.
15. I have considered the arguments raised by interested parties, but these are not supported by compelling technical evidence that would lead me to alter my findings above.
16. For the above reasons, I conclude the proposal would have an acceptable effect on highway safety, with particular reference to the impact of HGVs on the highway network. I therefore find no conflict with saved Policy GEN1 of the Uttlesford Local Plan 2005 (ULP), which requires the design of the site not to compromise road safety. I also find no conflict with paragraph 116 of the Framework, which states development should only be refused on highways ground if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios.

Living conditions

17. On the evidence before me, the dominant noise source for residents near the appeal site at the time of permission Ref UTT/22/2744/FUL was traffic along Parsonage Road. As noted above, use of two of the business units for Class B8 purposes would reduce overall additional traffic on this road compared to the level found to be acceptable when that permission was granted. Noise associated with additional traffic movements from the development would therefore also reduce. Although the number of HGV journeys would be likely to increase slightly, and these could cause more noise and vibration than smaller vehicles, as noted such

movements would be infrequent. In the round, therefore, any increase in traffic noise or vibration on Parsonage Road from the appeal proposal would not be so great as to give rise to significant adverse effects.

18. Once inside the site, HGVs would travel at slow speeds as noted above. There would be buildings separating the internal roads from most of the nearest dwellings, which would help mitigate noise and disturbance. The operating hours of the development would be restricted to daytime hours by condition were I to allow the appeal, so HGVs would not be able to arrive or park outside these hours. I would also impose a condition controlling noise from plant, machinery and vehicles, taking account of the noise-related conditions imposed on the original permission that have already been discharged.
19. Taking all this together, I am satisfied there would be no material additional disturbance or nuisance to, or significant adverse impact on the health or quality of life of, occupiers of surrounding properties, including those proposed nearby.
20. For the above reasons, I conclude the proposal would have an acceptable effect on the living conditions of neighbouring occupiers, with particular reference to noise and disturbance. I therefore find no conflict with saved ULP Policies GEN2 and GEN4, which seek to minimise the environmental impact of development and resist development that would cause material disturbance or nuisance to occupiers of surrounding properties. I also find no conflict with the Framework, which requires decisions to avoid noise giving rise to significant adverse impacts on health and the quality of life.

Other Matters

21. Concerns have been raised that storage and distribution uses would adversely affect the quantity and quality of jobs generated by the development, and that such jobs would be less suitable for local people. It has also been put to me that other commercial developments nearby provide space for storage and distribution uses and demand on the appeal site is for other types of employment and/or light industrial use.
22. There is little compelling evidence to substantiate these arguments. Storage and distribution uses would still generate employment, including for local people, which I understand was a primary consideration in the original permission. Whilst that decision considered local need for light industrial units, on the evidence before me supporting data did not demonstrate an absence of demand for other types of business use. The size of the units would not change. Moreover, the quantum of B8 floorspace would be modest relative to larger commercial schemes in the area and would be likely to serve a different or complementary business need. Consequently, the concerns raised do not outweigh my findings above.
23. Even if chemicals were to be transported or stored, there is little to show this would be hazardous bearing in mind other regulatory controls.

Planning obligations

24. Permission Ref UTT/22/2744/FUL is subject to a legal agreement under section 106 of the Town and Country Planning Act 1990 (the s106 agreement). This is before me and secures planning obligations in relation to the healthcare facility

land, a workplace travel plan, and sustainable transport and highways contributions.

25. If I were to allow this appeal, I would be granting a new planning permission. Paragraph 17 of the s106 agreement states that, if a condition contained in permission Ref UTT/22/2744/FUL is varied following a section 78 appeal, the covenants or provisions of the agreement shall be deemed to bind the varied permission and to apply in equal terms to the new planning permission.
26. The same planning obligations would be necessary to make the development acceptable in planning terms and I am satisfied they would still be directly related to the development and fairly and reasonably related to it in scale and kind. I therefore see no reason for consequential amendments to the s106 agreement to reflect the impact of my decision, were I to allow this appeal.
27. On this basis, and having invited comments from the main parties, I am satisfied the planning obligations secured for the original permission would also be secured for the new permission were I to allow this appeal. Accordingly, I give these obligations significant weight.

Conditions

28. I have considered the conditions attached to the original permission and imposed updated conditions to address the matters that remain relevant, taking account of updated information from the Council about those that have been discharged. I invited comments from the parties about the new conditions in the interests of fairness and have taken these comments into account.
29. The original development has started, so a time limit condition for commencement of development is not necessary. I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
30. Conditions relating to identification of contaminated land, prevention of birds hazardous to aircraft, and implementation of the ecological mitigation measures submitted with the original application are necessary because construction is ongoing. However, a condition requiring a review of ecological reports and surveys if the development does not commence within 18 months of the original planning consent is not necessary because the development has started.
31. Conditions attached to permission Ref UTT/22/2744/FUL have been discharged in relation to approval of details for: Construction Environmental Management Plans, Energy Statement, external materials, Biodiversity Compensation and Enhancement Strategy, Landscape and Ecology Management Plan, surface water drainage scheme (including maintenance logs), hard and soft landscaping, biodiversity lighting scheme, paths, and low-emission transport modes. I have imposed corresponding conditions on this permission to ensure the development is carried out in accordance with these approved details and, where relevant, that the approved provisions are retained and/or maintained thereafter.
32. Pre-occupation conditions relating to parking and access are necessary in the interests of highway safety, good parking management and to promote cycling. Conditions restricting permitted development rights for external lighting and

installation of reflective materials including solar PV panels are necessary in the interests of flight safety at nearby Stansted airport.

33. The condition limiting uses of the development is necessary to safeguard employment floorspace. This and the condition limiting hours of operation are also necessary to protect the living conditions of neighbouring occupiers. The condition relating to noise is necessary for the same reason and includes compliance with details already approved through the post-completion noise survey.

Conclusion

34. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting others and restating those undisputed conditions that are still subsisting and capable of taking effect.

C Carpenter

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos:
 - WH202.WST.P2.ZZ.DR.PL.05.01 Location Plan
 - WH202.WST.P2.ZZ.DR.PL.05.02 Site Ownership Plan
 - WH202.WST.P2.ZZ.DR.PL.10.00 Masterplan Coloured
 - WH202.WST.P2.ZZ.DR.PL.10.00 REV A Connectivity
 - WH202.WST.P2.ZZ.DR.PL.10.01 Master Plan - General Arrangement
 - WH202.WST.P2.ZZ.DR.PL.10.01 REV A Master Plan - Minor Material Amendment to Permitted Uses
 - WH202.WST.P2.ZZ.DR.PL.10.02 Refuse Strategy
 - WH202.WST.P2.ZZ.DR.PL.10.04 Landscape Details
 - WH202.WST.P2.ZZ.DR.PL.10.06 Parking Layout
 - WH202.WST.P2.ZZ.DR.PL.10.07 Street Lighting Strategy
 - WH202.WST.P2.ZZ.DR.PL.10.08 Cycling Strategy
 - WH202.WST.P2.ZZ.DR.PL.10.09 Traffic Control Strategy
 - WH202.WST.P2.ZZ.DR.PL.25.01 Commercial Units Plans
 - WH202.WST.P2.ZZ.DR.PL.25.02 Commercial Units Elevations
 - WH202.WST.P2.ZZ.DR.PL.25.03 Class E Building Plans and Elevations
 - WH202.WST.P2.ZZ.DR.PL.30.01 Street Scenes
 - WH202.WST.P2.ZZ.DR.PL.30.02 Street Section
 - WH202.WST.P2.ZZ.DR.PL.35.10 Site Sketch Sections
 - WH202.WST.P2.ZZ.DR.PL.10.200 Proposed Connectivity Plan

2951-LA-03 REV P02 Landscape Details

2007045-SK-11/A Access

SK10 – REV B Drainage

- 2) If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the local planning authority without delay. Any land contamination identified shall be remediated to the satisfaction of the local planning authority to ensure that the site is made suitable for its end use.
- 3) During construction, measures shall be taken to prevent species of birds that are hazardous to aircraft being attracted to the site, including: no pools of water on to be created the site; earthworks to be carried out on a 'just in time' basis and not left uncovered for longer than necessary to undertake the construction works; and measures to prevent scavenging by birds of any detritus.
- 4) All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecology Update and Walkover, by Ecology Solutions dated September 2022, that was submitted with the planning application. This may include the appointment of an appropriately competent person such as an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.
- 5) The development hereby approved shall be carried out in accordance with the Construction Environmental Management Plan approved under application Ref UTT/23/1655/DOC.
- 6) The development hereby approved shall be carried out in accordance with the Construction Environmental Management Plan: Biodiversity approved under application Ref UTT/23/1656/DOC.
- 7) The development hereby approved shall be carried out in accordance with the scheme to minimise the risk of off-site flooding caused by surface water run-off and groundwater during construction works, approved under application Ref UTT/23/1657/DOC. The applicant or successor in title shall maintain yearly logs of maintenance which shall be carried out in accordance with the approved drainage maintenance plan. These logs shall be made available for inspection upon request by the local planning authority.
- 8) The development hereby approved shall be constructed in accordance with the external materials approved under application Ref UTT/23/2110/DOC.
- 9) The development hereby approved shall be carried out in accordance with the measures to maximise the use of low-emission transport modes approved under application Ref UTT/23/2258/DOC.
- 10) The development hereby approved shall be carried out in accordance with the Biodiversity Compensation and Enhancement Strategy for protected and priority species approved under application Ref UTT/23/2863/DOC. The approved details shall be implemented prior to first occupation of the units and shall thereafter be retained and maintained.

- 11) The Landscape and Ecology Management Plan (LEMP) for the development hereby approved shall be implemented in accordance with the details approved under application Ref UTT/23/2864/DOC.
- 12) The development hereby permitted shall be carried out in accordance with the hard and soft landscaping scheme approved under application Ref UTT/24/0429/DOC.
- 13) The development hereby permitted shall be carried out in accordance with the lighting scheme approved under application Ref UTT/24/0445/DOC. The external lighting shall be maintained thereafter in accordance with the approved scheme. No other external lighting shall be installed.
- 14) All paths, including the extended footpath, shall be delivered in accordance with the details approved under application Ref UTT/24/0980/DOC and shall be retained in that form thereafter. The Medical Centre shall not be occupied until the extended footpath has been implemented. The Owners and/or Developer shall not cause there to be any legal or physical barriers to impede the passage of pedestrians or cyclists along the footpaths or footway/cycleway either at the boundaries of the Land or at any point on the Land within the ownership of the Owners and/or Developer.
- 15) The development hereby approved be carried out in accordance with the Energy Statement approved under application Ref UTT/23/1664/DOC. The carbon reduction measures shall be fully operational before first occupation of the units and shall thereafter be retained.
- 16) Prior to occupation of the development hereby approved, the access shown on drawing no. 2007045-SK-11/A shall be provided, including a footway, a footway/cycleway, and clear to ground vehicular visibility splays with dimensions of 2.4 metres by 120 metres in both directions, as measured from and along the nearside edge of the carriageway. The vehicular visibility splays shall be retained free of any obstruction at all times thereafter. A crossing of the access road and an uncontrolled crossing point on Parsonage Road shall be provided as part of the access works.
- 17) The development hereby approved shall not be occupied until such time as the associated commercial vehicle parking area indicated on the approved plans has been hard surfaced, sealed and marked out in parking bays. The vehicle parking area and associated turning area shall be retained in this form at all times. The vehicle parking area shall not be used for any purpose other than the parking of vehicles that are related to the use of the development unless otherwise agreed with the local planning authority.

This condition does not apply to the overflow car parking shown on drawing no. WH202.WST.P2.ZZ.DR.PL.10.06, which is subject to condition 18.
- 18) The overflow car parking shown on drawing no. WH202.WST.P2.ZZ.DR.PL.10.06 shall not be used for any purpose other than the parking of vehicles that are related to the use of the adjacent Weston Group Business Hub and/or Weston Innovation Centre buildings and any extension to, or replacement of, those buildings.

- 19) The development hereby approved shall not be occupied until such time as secure, covered, convenient cycle parking has been provided in accordance with the Essex Parking Standards. The cycle parking shall be connected to the proposed cycleways by cycleway connections.
- 20) Noise from plant and equipment including extract ventilation shall be limited to 10dB(A) below the background noise level (as established through the approval of application Ref UTT/23/1181/DOC) measured and expressed as a LA90,15 minutes from the boundary of the nearest residential property. This shall include any penalties for noise characteristics such as tone or intermittency. Noise levels shall not exceed those recorded in the post-completion survey submitted and approved under application Ref UTT/23/1181/DOC.

The noise of all vehicles and equipment required for the operation of the proposed industrial site shall not exceed a rating level above the daytime and evening background noise level when measured at any boundary of the nearest sensitive receptor, in accordance with BS4142:2014.
- 21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill. Flat plate LED luminaries that are downward focused shall be used.
- 22) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) and the details approved under application Ref UTT/23/1660/DOC, no reflective materials other than clear or obscure glass, including solar PV panels, shall be added to the building without the express consent of the local planning authority. If solar PV panels are to be added, a full Glint & Glare assessment will be required.
- 23) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 as amended, or any provision equivalent to that Order in any statutory instrument revoking and re-enacting that Order, the use of the premises hereby permitted shall be restricted to any industrial process (Use Class E(g)), Use Class E(e) and Use Class B8 (for units 11 and 12 only) and the premises shall not be used for any other purpose including any other use within Class E of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (or any equivalent Class in any Order that may replace it), unless approval is obtained to a variation of this condition through the submission of a planning application. No more than 600m² of the floorspace hereby permitted shall be allocated to Class E(e).
- 24) The use of the buildings hereby permitted shall not be operated before 07.00 hours or after 21.00 hours Monday to Sunday, including Bank Holidays.

End of schedule