



Appeal Decision

Site visit made on 23 January 2025

by **Alexander O'Doherty LLB (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 April 2025

Appeal Ref: APP/B1740/W/24/3346980

Land at Courtvale Farm, Court Hill, Damerham, Hampshire SP6 3HL

- 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 D R Smith Properties Ltd against the decision of New Forest District Council.
- The application Ref is 24/10176.
- The development proposed is storage container and fuel tanks.

Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. It is clear from the Council's decision that it has no objection to the storage container. The Council's Enforcement team are satisfied that the container has been in situ in excess of 10 years, and it is not the purpose of an appeal under s78 of the Town and Country Planning Act 1990 (as amended) to determine the lawfulness of any building, use, or operation. Therefore, the consideration of this appeal focuses on the effect of the fuel tanks.
4. The appeal site lies within the Cranborne Chase National Landscape¹ (National Landscape). Under s85(A1) of the Countryside and Rights of Way Act 2000 (as amended), in determining this appeal I must seek to further the purpose of conserving and enhancing the natural beauty of the National Landscape. This has been reflected in the main issue, below.
5. The proposed development is already in place and I shall deal with the appeal on this basis.

Main Issue

6. The main issue is the effect of the fuel tanks on the Higher Court Wood Site of Interest for Nature Conservation (SINC) and the National Landscape.

Reasons

7. This appeal concerns 2 fuel tanks situated in an established civil engineering depot. The depot is located in the countryside, outside the New Forest National

¹ Since 22 November 2023, Areas of Outstanding Natural Beauty are known as National Landscapes.

Park, between the villages of Sandleheath and Damerham. The tanks are modestly-sized structures sited on a small area of hardstanding.

8. The tanks are situated within the SINC and within an area covered by a woodland Tree Preservation Order (TPO). These areas comprise ancient woodland. The importance of SINC is highlighted in the National Planning Policy Framework (the Framework), which refers to locally designated sites (including Local Wildlife Sites) as being locally designated sites of importance for biodiversity.
9. It is clear from the historical aerial images provided at Appendix A of the appellant's Grounds of Appeal that the area now comprising the tanks was historically well-vegetated with both trees and ground cover. It appears that since approximately 2014, the trees and ground cover on the land now comprising the tanks has been incrementally eroded. Consequently, part of the SINC and an area covered by the TPO has been destroyed. This has compromised the capability of the SINC as a whole to support wildlife.
10. Whether or not these encroachments occurred through the actions of the present occupier of the depot is immaterial; the fact is that they have occurred. I note that, following the removal of items previously placed on cleared land near the tanks, that land has started to recover. It is clear, then, that whilst the tanks are placed on hardstanding erected after the encroachments have occurred, the continuing presence of the tanks within the SINC and the use of the land immediately adjacent to the tanks for temporary parking whilst refuelling has the effect of halting the regeneration of the SINC. For these reasons, I find that, contrary to the representations of the Council's Ecologist, the tanks serve to perpetuate the harm caused.
11. Policy DM2 of the New Forest District (outside the National Park) Local Plan Part 2: Sites and Development Management (adopted 2014) (Local Plan) provides that, amongst other things, development which would result in damage to or loss of a site of biodiversity or geological value of regional or local importance will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity.
12. Whilst mention has been made of the operational and safety requirements of having the tanks in their present location, and concerns have been raised regarding the inefficiency of site operations if they were placed elsewhere, the appellant has conceded that relocating the tanks is technically possible. Few details have been provided to illustrate the financial implications of siting the tanks elsewhere within the site. Thus, it has not been demonstrated that the siting of the tanks in their present location is imperative for the business to function effectively. As such, no more than moderate weight is given to these factors in support of the development. These matters do not clearly outweigh the harm identified to the SINC in the terms of Policy DM2.
13. The red line boundary is drawn tightly around the tanks on site. In all likelihood, the development offers very little scope for the achievement of a net gain in biodiversity, as required by Policy DM2. This is a separate matter to the more recent requirements to secure biodiversity net gain under Schedule 7A of the Town and Country Planning Act 1990 (as amended). Hence, the appellant's suggested condition relating to biodiversity would not overcome the harm

identified. So, the development also conflicts with the requirement of Policy DM2, that the loss to the SINC can be mitigated to achieve a net gain in biodiversity.

14. National Landscapes have the highest status of protection in relation to landscape and scenic beauty. Paragraph 189 of the Framework provides that, amongst other things, the conservation and enhancement of wildlife and cultural heritage are important considerations in National Landscapes. Given the harms to wildlife identified above, the development does not further the purpose of conserving and enhancing the natural beauty of the National Landscape, under the terms of s85(A1) of the Countryside and Rights of Way Act 2000 (as amended).
15. I therefore find that the fuel tanks have an unacceptable and harmful effect on the SINC and the National Landscape. The development conflicts with Policy DM2 of the Local Plan, the relevant parts of which have been summarised above.

Other Matters

16. As the development does not include any lighting, it does not affect the Dark Sky Reserve. This is a neutral matter, which does not weigh in favour of the development.
17. Reference has been made to alleged breaches of planning control, but this is not a matter that I can assess in the context of a planning appeal.

Other Considerations and Planning Balance

18. Although reference has been made to the need for the fuel tanks, the scale of the economic benefits of the development have not been quantified, either over the short or the long-term. It is not my role to speculate on these matters. Therefore, whilst I note the policies of the development plan and the Framework which seek to support employment and economic growth in general, in this case it has not been demonstrated that the benefits of the development in economic terms are significant. Little weight is given to this matter in support of the development.
19. Considering the case in the round, none of the other considerations material to the development indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

20. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR