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## Appeal Decision

Site visit made on 19 June 2025

**by Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 26 June 2025**

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**Appeal Ref: APP/X3540/W/24/3348513**

**Foxburrow Farm, Waldringfield Road, Brightwell, Suffolk, IP10 0BZ**

- 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 Foxburrow Group Storage against the decision of East Suffolk Council.
  - The application Ref is DC/24/0449/FUL.
  - The development proposed is described as 'Change of use of land for the storage of containers (associated with Port of Felixstowe), including erection of associated fencing'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Within the submissions of interested parties and the Council there are suggestions that the proposal is contradictory and lacks precision. To clarify, the proposal before me is for the change of use of the appeal site for the storage of empty shipping containers measuring either 6.10m or 12.19m in length. This amounts to a 'B8 storage and distribution use' as specified by the Use Classes Order 1987 (as amended). The appellant has indicated that they anticipate up to 600 containers would be stored on site at any one time and they would not be stacked. Instead, the containers would be placed directly on the ground without a hard standing being constructed. Containers would be loaded and unloaded from HGVs by forklift trucks and the area would be enclosed in fencing with gated access. The location of the proposed fence is shown on the drawings and corresponds with the perimeter of the red line site area. The Transport Statement states that the number of HGV visits will fluctuate from 0-15 a day depending on how many containers need to be moved and that the hours of operation would be 0800 to 1800.
3. The National Planning Policy Framework (the 'Framework') was revised after the Council made its decision. The Council and appellant were given the opportunity to comment on this. A Screening Direction for the purposes of the EIA Regulations<sup>1</sup> was issued by the Secretary of State on the 22 May 2025 confirming that the proposal is not EIA development.

### Main Issues

4. The main issues in this appeal are:
  - Whether the proposed development would be in an appropriate location, with reference to the Council's strategy for the location of employment development;

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<sup>1</sup> Town and Country Planning (Environmental Impact Assessment) Regulations 2017

- Whether the proposal includes adequate information to assess the effect on the landscape, residential amenity, flood risk and land contamination;
- Whether adequate information has been submitted to assess the effect of the proposal on highway safety; and
- The effect of the proposed development on biodiversity, with particular reference to UK Priority Habitat and enhancement measures.

## Reasons

### *The Council's strategy for the location of employment development*

5. The appeal site encompasses a parcel of grassland set between a solar farm and two wind turbines and next to a waste recycling compound the operates of which also supplies aggregates. Foxburrow Farm no longer has any agricultural operations. The appeal site is positioned outside of the settlement boundaries defined in the Suffolk Coastal Local Plan (LP) and is therefore in the countryside. Policy SCLP3.3. states that new employment development will not be permitted in the Countryside except where specific policies in the Local Plan indicate otherwise. This approach is consistent with Paragraphs 88-89 of the Framework.
6. Policy SCLP4.5 of the LP is concerned with economic development in rural areas. It supports such development subject to criteria. One of the criteria is for the scale of development to accord with the settlement hierarchy in the LP. Policy SCLP3.2 of the LP outlines the settlement hierarchy and is supported by Table 3.4 which sets out the policy approach for each of the settlement types and the countryside. In the countryside four types of employment development are permitted, these being the conversion and replacement of rural buildings for employment (Policy SCLP4.6), development within existing employment areas (Policy SCLP4.1), farm diversification (Policy SCLP4.7) and new employment where a need is demonstrated (Policy SCLP4.2). The appeal scheme does not fall into the first two categories and nor is it farm diversification because the appeal site is not part of a farm. A previous Inspector likewise found no evidence of agricultural activities at Foxburrow Farm when considering an appeal in 2020<sup>2</sup>. As such, only Policy SCLP4.2 of the LP provides a potential pathway for the scheme.
7. Policy SCLP4.2 of the LP seeks to ensure new employment sites are well situated in accordance with the overarching settlement hierarchy. It states that proposals for new employment development falling within use classes B1, B2 and B8 on land outside of settlement boundaries will be permitted where a need for additional employment development has been demonstrated *or* it can be demonstrated that there is no sequentially preferable land available adjacent to existing employment areas, within existing employment areas or within settlement boundaries.
8. The appellant has not provided any evidence to suggest they have sequentially considered other sites. Instead, reliance is placed on a needs case. The appellant submits that there is an acute need for additional sites to store empty shipping containers generated by the operations at Felixstowe Port.
9. However, substantive evidence to this effect has not been provided. Instead, the appellant's have referred to confidential correspondence with an unnamed logistics

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<sup>2</sup> APP/X3540/W/19/3236092

company<sup>3</sup> that they suggest provides storage for the Port and have apparently indicated that there is a need for sites to store empty containers. Setting aside that I cannot have regard to confidential evidence and that no mechanism has been submitted securing the use of the appeal site solely by the Port of Felixstowe, the correspondence has not been submitted and therefore the case for a shortfall in storage capacity at the Port has not been made out.

10. In any event, no corroborating information has been submitted from the Port to confirm there is an acute shortfall of land for storing empty containers. Nor is there any detail explaining the extent of the shortfall or how the Port intends to address it. There is also no general background explaining the logistics around the storage of empty shipping containers at the Port. The proposal is at odds with Policy SCLP4.2 of the LP in the absence of a robust needs case.
11. In conclusion, the appellant has failed to demonstrate a need for the proposed B8 storage facility at the appeal site, which is in the countryside. In the absence of this the proposal is at odds with Policies SCLP4.2, SCLP4.5, SCLP3.2 and SCLP3.3 of the LP and would not be in an appropriate location when applying the Council's spatial strategy. This would harm the public interest of having a genuinely plan led system that provides consistency and direction.

*The adequacy of information regarding the effect on the landscape, residential amenity, flood risk and land contamination*

12. As previously indicated, the appeal site is a parcel of closely mown grassland located a considerable distance back from the road behind a fenced solar farm and in front of two wind turbines. It also adjoins a waste recycling facility with piles of material and is close to a fenced compound where equipment and other machinery is kept for maintaining the wider land parcel owned by the appellant. There is also a caravan repair business nearby and the expanding urban area of Martlesham. Thick belts of landscaping including woodland, scrub and hedging screen the site from the public realm, including the nearest public footpaths. Indeed, the closest footpath to the appeal site passes through a shallow valley to the west.
13. Given the forgoing, the storage containers would not be visible from the public realm if not stacked and would have a negligible effect on landscape character as only a manicured parcel of grassland broadly contained by existing development would be affected. The Council's Landscape Officer did not object subject to a condition preventing stacking and another to control lighting. In respect of lighting, this would only be required for a couple of hours in the winter and would be from the vehicles manoeuvring the containers. It is therefore difficult to understand what further details the Council needs to consider the proposal in this respect.
14. Newly constructed residential properties are located around 400m northwest of the appeal site boundary. The Council are concerned that insufficient information has been submitted to consider the impact on the living conditions of the occupants of these properties. During my site visit I was able to hear reversing alarms and the odd bang from the neighbouring aggregate business when standing on the footpath north of Ipswich Road. This is indicative of the noise that might be generated from the appeal scheme. Therefore, it might be possible to hear reversing alarms and storage containers being moved around from the newly built homes. There have

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<sup>3</sup> The TS states that local logistic companies would use the site, rather than just one

not been noise complaints, but it is unclear how long the residential properties have been occupied.

15. That said, the noise would be distant, and the operations could be controlled through the imposition of a condition restricting activity to during the conventional working day Monday to Friday. The absence of stacking would also reduce noise and with only up to 15 HGVs visiting a day (resulting in up to 30 movements as they enter and then exit the site) the activity would not be intense with only short periods of loading and unloading. The noise impact is unlikely to be significant and the Council's Environmental Health Officer has not objected despite there being no noise impact assessment. Any residual concerns could be addressed through the imposition of a temporary condition to permit a trial run for 18 months<sup>4</sup> to test the impact on the living conditions of nearby residents.
16. As no hard standing is proposed there would be no operational development in place that could affect the ability of the ground to absorb water. That said, the presence of tightly packed shipping containers could influence drainage. However, the site is in Flood Zone 1 and I have seen nothing to demonstrate it is at risk of flooding from any other source. There is no objection from the Lead Local Flood Authority. As such, a condition could be imposed to secure a drainage strategy.
17. No significant ground works are proposed and therefore it is unlikely any contaminates in the ground, in so far as they are likely to be there on this previously undeveloped site, would be disturbed. The storage containers would be empty, there is no objection from the Council's Environmental Health Team and the proposal would not affect any sensitive end users. Accordingly, a condition could be imposed to address the low risk from land contamination in this instance.
18. In conclusion, I am satisfied that the Council had adequate information before it, including the responses from expert consultees, to form reasoned conclusions on the above matters. The Council has not demonstrated what further information it needs to assess whether a conflict with Policies SCLP10.4, SCLP11.1 and SCLP11.2 would occur. On the contrary, and subject to conditions, the evidence before me indicates that a conflict would not happen.

*The adequacy of information regarding highway safety*

19. The Council's third reason for refusal raises concerns that no information has been submitted in respect of vehicle movements, including their frequency and the times of day the site would be accessed. This information is contained in a Transport Statement (TS) submitted to inform the Screening Direction. The TS explains that up to 15 HGV visits would occur in any one day and that the highway network has capacity to absorb this without any severe impact. The number of HGV movements could be controlled through the imposition of a planning condition requiring a log to be kept and periodically submitted to the Council. Moreover, the site entrance has sufficient visibility and is already in use by HGVs serving the aggregate business.
20. The Council were afforded an opportunity to comment on the TS and did not raise any concerns with its methodology. The Council has confirmed that 15 visits a day generating 30 movements would not be a significant level of traffic, but it is

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<sup>4</sup> The appeal suggested three years but this would be too long if a harmful noise impact were occurring

nevertheless concerned that HGV movements have the potential to generate highway safety and traffic problems. No substantive evidence has been submitted to support this contention, including the views of a highway expert. For example, there is nothing to suggest the road linking the appeal site and the A12 is too narrow against recognised standards, has poor visibility or is congested.

21. Alternatively, the TS concludes that the proposal would not have an adverse impact on the efficiency or safety of the local transport network. This chimes with the comments from the Local Highway Authority, who had not raised any objections during their consideration of the planning application. I afford these expert views significant weight, especially in the absence of evidence to the contrary.
22. Parking and manoeuvring space is not identified on the plans, but it would be possible to impose a condition requiring a plan showing vehicle tracking, parking and circulation prior to the commencement of development. This is because the site is large and consequently there would be ample space to achieve the necessary standards. It may be that the number of containers stored on site would need to be reduced from the 600 anticipated, but that would not alter the operative part of the description of development because the number of containers is not fixed in this way. A reduction in the area available for storing the containers would not result in stacking because this can be prohibited through the imposition of a separate planning condition.
23. Thus, I conclude that sufficient information has been submitted to consider the highway effects and that a conflict with either Policies SCLP7.1 or SCLP7.2 has not been demonstrated by the Council.

*The effect of the proposed development on biodiversity, with particular reference to UK Priority Habitat and enhancement measures.*

24. The Preliminary Ecological Appraisal (PEA) concludes that the site contains habitat suitable of supporting protected species, namely bats, nesting and foraging birds, great crested newts, reptiles and hedgehogs. The habitat being referred to is the mature hedge along the western boundary of the site, which is a Priority Habitat listed under Section 41 of the Natural Environment and Rural Community Act 2006. It is not a reference to the closely mown grass, which is unlikely to be of much habitat value as it is currently managed.
25. The plans show the proposed perimeter fence cutting right through the hedgerow, which has understandably resulted in the Council raising concerns. That said, the appellant has explained that this is a drafting error on the plans. Instead, the intention is to place the fence away from the hedge outside the yellow buffer zone shown in the PEA. On this basis, the author of the PEA has stated that no further surveys are required because the hedgerow, alongside a buffer, would remain unaffected. I have no reason to take a different view.
26. Thus, the evidence before me demonstrates that proposal would not harm biodiversity subject to the imposition of conditions requiring a buffer, controlling lighting and moving the position of the proposed fence. A condition would also be required to secure a Constriction Environment Management Plan
27. The Council are also concerned about the absence of details relating to enhancement measures. However, the appellant owns a large parcel of land. It

would be possible to impose a 'Grampian'<sup>5</sup> type condition prohibiting development from starting until a proportionate scheme of biodiversity enhancement, with a timetable for implementation, has been approved. Indeed, there is nothing before me to suggest the closely mown land directly to the south of the appeal site could not be used as a meadow or for tree and hedge planting. There may be other parcels of land in the appellant's ownership that could be used.

28. In conclusion, I am satisfied the evidence before me demonstrates that an adverse impact on biodiversity would not occur. On the contrary, the proposal would instead deliver an enhancement subject to conditions. Thus, a conflict with Policy SCLP10.1 and Paragraph 187 of the Framework would not occur.

### **Other Matters**

29. As the proposal does not include operational development in the form of hardstanding, including a tarmac roadway into the site with passing places, there is a risk that the appeal scheme would generate dust. Vehicle movements into and around the site could also result in mud, which could be deposited onto the road. This matter would have required further consideration had the scheme been otherwise acceptable.
30. The proposed entrance gate is shown in an incorrect position on the plans as it would not align with the site entrance. This could have been corrected through the imposition of a planning condition had the scheme been otherwise acceptable.

### **Conclusion**

31. The appeal scheme is aimed at supporting Felixstowe Port, which is a facility of strategic significance to the economy of the country. Indeed, in some respects the appeal site is well placed to assist the operations of the Port being only a few miles from a junction of the A12 which in turn connects to the A14 corridor and the Port. Furthermore, Policy SCL3.1 seeks to focus growth on the A12 and A14 corridors. The LP also seeks to grow the area's economy by recognising the opportunities presented by the Port. Storing containers at the appeal site in the way proposed would not harm the landscape, highway safety, residential amenity or biodiversity for the reasons given above.
32. However, the proposal is at odds with the spatial strategy for employment development because it has not been demonstrated that there is a need for it in this rural location. Accordingly, the proposal would be at odds with the development plan taken as a whole. In the absence of need, and because only a few jobs would be created, the benefits of the proposal would not outweigh the harm. Accordingly, I conclude that the appeal should be dismissed.

*Graham Chamberlain*  
INSPECTOR

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<sup>5</sup> See Planning Practice Guide Paragraph: 009 Reference ID: 21a-009-20140306