



Appeal Decision

Site visit made on 8 July 2025

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 September 2025

Appeal Ref: APP/P1615/W/25/3360899

Haulage Transport Depot, Plump Hill, Mitcheldean, Gloucestershire GL17 0EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Colin Wozencroft against the decision of Forest of Dean District Council.
 - The application Ref is P1630/23/OUT.
 - The development proposed is described as: 'erection of up to 5 dwellings with associated works (redevelopment of brownfield site)'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for Costs was made by Mr Colin Wozencroft against the Forest of Dean District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline form with all matters reserved at this stage. Therefore, I have treated the drawings showing the site access and layout of the dwellings as indicative only.
4. The appellant submitted additional information with the appeal. This comprised an assessment of the site's economic viability and further bat survey data. The development proposed remains unchanged following the submission of these details. Although this additional information has not been subject to public consultation, the information is of a technical nature and the Council has had the opportunity to comment on it during the appeal. I have therefore based my decision on the amended information.

Main Issues

5. The main issues are:
 - whether the proposal would be in a suitable location for housing, having regard to the settlement strategy and access to services and facilities;
 - the effect of the proposal on biodiversity, with particular regard to protected species and the Wye Valley and Forest of Dean Bat Special Area of Conservation (SAC); and
 - the effect of the proposed development on employment land in the district.

Reasons

Location of development

6. The appeal site comprises an oval area of commercial land with an access onto the A4136. The site is surrounded, in part, by a sharply rising bank. The mature trees above the bank and around the site boundary serve to contain the appeal site on most of its sides. There are a small number of dwellings nearby laid out in a scattered arrangement that reflects the immediate area's location close to, but outside the settlement boundary of Mitcheldean.
7. Policy CSP.4 of the Forest of Dean Core Strategy (2012) states that 'Most changes in towns and villages will be expected to take place within existing settlement boundaries unless or until they are replaced by other LDF documents.' It does suggest possible exceptions including affordable housing for local persons, building conversions and (rarely) new buildings for employment uses on the edge of settlements. The policy also advises that areas outside of settlement boundaries are to be treated as part of the open countryside.
8. Further exceptions, where development outside of the settlement boundary, is deemed acceptable are listed in Policy H2 of the Mitcheldean Neighbourhood Development Plan (the MNDP).
9. As the appeal site is outside the settlement boundary for Mitcheldean and the proposal does not meet the suggested exceptions, there would be some conflict with Policy CSP.4 of the Core Strategy and H2 of the MNDP.
10. Policy AP.1 of the Allocations Plan 2006-2026 (the Allocations Plan) sets out what constitutes sustainable development in the district. Table 4, in the policy's supporting text, sets out that the test of 'Accessibility' requires consideration of whether the site can be easily accessed by modes other than the private car. Consideration should also be given to the location of developments in making the best use of existing facilities and services, and whether they support local town centre services. To be considered 'sustainable' development proposals must also be expected to meet the requirements set out in national policy. Proposals that do not meet these requirements should not be permitted. In this respect the National Planning Policy Framework (the Framework) requires schemes to limit the use of more polluting forms of transport in favour of developments which engender pedestrian and cycle movements and facilitate, as far as possible, access to public transport¹.
11. Access from the appeal site to nearby Mitcheldean is along the A4136, a busy road with a speed limit of 40mph. The settlement boundary is around 800m from the site while the distance to the town's facilities and services, are in the region of 1.2km, according to the Council. To access those amenities by foot or a mobility aid (e.g. buggy, mobility scooter) users would have to negotiate a narrow, steep and largely unlit pavement. In parts the pavement is obstructed by overgrown vegetation emanating from the adjacent hedgerows that line the road. The path terminates intermittently, and users would be required to cross the busy A4136 where the pavement leading into Mitcheldean continues. In view of these constraints the routine use of the pavement by future occupiers to access nearby

¹ Paragraphs 110 and 117 of the National Planning Policy Framework (NPPF)

services/facilities would be undesirable and have the perception of being unsafe for users.

12. Cycling into Mitcheldean would be a more realistic prospect, although this would unlikely appeal to most of the future occupiers given that the return journey to the site would be up a steep and winding hill. The use of electric bikes could make those journeys less challenging, however, some cyclists are likely to be discouraged by the speed of travelling vehicles and the lack of a segregated cycle path along the road.
13. There are bus services, a short walk from the site along Plump Hill and further services departing from Mitcheldean. Some of those services include routes to local schools and larger service centres. The proximity of the services stopping near the site would be desirable to some future occupiers, but not all would consider taking the short walk to catch a bus given the condition of the footway along the A4136 and the absence of a bus shelter during inclement weather. For those services departing Mitcheldean, again, for the reasons stated, the route by foot to the town would discourage most from accessing the available buses.
14. Given the above, future residents of the proposed development are likely to be heavily reliant on the use of private vehicles to access local services and facilities. This would be the least sustainable travel option and would undermine the Council's spatial strategy, in addition to the guidance in the Framework.
15. Despite these policy breaches, the development would be carried out on previously developed land (PDL) and represents an effective use of the land. Moreover, and notwithstanding that occupiers at the site would be heavily reliant on less sustainable journeys by private motor car, trips to nearby Mitcheldean would be short in length and duration. Furthermore, given the proximity of the settlement, the occupiers of the development would likely support town centre uses and could help sustain the viability of local facilities and services.
16. These factors align in part with aspects of Policy CSP.4, Policy CSP.5 of the Core Strategy and the Framework which broadly promotes the development of PDL and schemes which can provide support to local services. For these reasons, the compliance with those aspects of the development plan and the Framework weighs positively in favour of the scheme, and tempers the magnitude of harm, which in the case of the site's unsustainable location with regard to walking, cycling and public transport, is at the lower end of the spectrum. These matters will be considered further in the planning balance.
17. I have been referred to several decisions determined by the Council and at appeal. Those schemes are either located in different parts of the district, in some cases better connected and more accessible to the settlement's services and facilities or determined under different policy circumstances and main issues. Therefore, they are not directly comparable to the proposal before me.
18. Taking all of the above into account, whilst the site is not far from Mitcheldean and would utilise PDL, it is likely that future occupiers would predominantly use private vehicles to access the services and facilities available in Mitcheldean and further afield. As such, even though the development would not be likely to generate significant amounts of vehicle movements over the long-term, the development nevertheless does not assist in the promotion of sustainable transport.

19. Therefore, the appeal site does not provide a suitable location for the development, having particular regard to the settlement strategy and access to services and facilities. It conflicts with Policy CSP.4 of the Core Strategy which provides that, amongst other things, new development must contribute to reinforcing the existing settlement pattern in a manner which emphasises the importance of the towns, and with Policy AP.1 of the Allocations Plan where it requires schemes to comply with the principles of sustainable development. There is also conflict with Policy H2 of the MNDP, as the proposal does not meet any of the exceptions for development located outside the settlement boundary.

Biodiversity

20. The site is outside but close to the Wye Valley and Forest of Dean Bat SAC (the SAC). The qualifying features of the SAC are populations of Greater and Lesser Horseshoe bats. The proposed development is 188m from the nearest component of the SAC (Westbury Brook Ironstone Mine) which is designated for its populations of hibernating lesser horseshoe bats. The SAC is protected pursuant to the Conservation of Habitats Regulations 2017 as amended.
21. According to the SAC Development Management – Horseshoe Bat Activity Survey and Assessment Guidance (the SAC Guidance), Horseshoe bats thrive in this area because it contains a network of caves, disused mines, tunnels and old buildings that provide substantial roosting opportunities. These roosts are set in a landscape that is predominantly rural and wooded, providing high quality and well-connected foraging habitat. The conservation objectives include maintaining or restoring the extent, distribution, structure, population and function of the qualifying species and their habitats.
22. Internal and external lighting from the proposal could interfere with the foraging and commuting behaviours of the bats. Furthermore, additional lighting on, or close to boundary linear features could also deter their foraging or commuting, potentially harming the species and their habitat. Consequently, alone and in combination with other development, a likely significant effect to the SAC resulting from the proposal cannot be ruled out.
23. The original survey information was found to be out of date. A more recent static survey was conducted over 10 days in September and October and concluded that the site is not used as a Lesser or Greater Horseshoe commuting route. However, and despite those findings, the Council's Ecologist indicates that surveys were not undertaken in accordance with the SAC Guidance at the optimum time of year. Survey timing is critical during times when bats are most active and detectable and when they are conducted outside of those periods they are harder to detect.
24. The Council's Ecologist also notes that surveys of bat activity were not carried out on the buildings at the site. On closer inspection I observed during my site visit a large steel shed and some storage containers nearby. There are sources of light close to these buildings, that would likely be unsuitable for bat habitats, nevertheless without the necessary surveys I cannot be certain of this.
25. The constraints caused by the seasonal nature of survey work is acknowledged. Even so, in the absence of this information I am not satisfied that the proposal would have an acceptable effect on ecology. Moreover, it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning

permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision².

26. As the competent authority in determining the effects of the proposal on bat species and their habitats, I must be sure the scheme would not adversely affect the integrity of the site. There can be no reasonable scientific doubt remaining as to the absence of adverse effects on the integrity of the site. On this basis the proposal must be supported by adequate evidence and reasoned mitigation. However, in this case key pieces of survey information that would ascertain bat activity at and around the site are not before me and I cannot rule out significant adverse harm upon important bat species within the SAC.
27. I have considered whether this additional survey work could be required by condition if all other matters were to be acceptable. However, when applying the precautionary principle, I cannot be certain the findings of those additional surveys would not have a likely significant effect either alone or in combination with other plans or projects. The effectiveness of the proposed mitigation measures in surveys required by condition would also be unknown prior to issuing planning permission.
28. The appellant indicates that the development of housing at the site would result in less light pollution compared to the existing use and could improve the habitat conditions for bats around the site. The photographs in the evidence suggest that the existing security lights at the site are very bright. These could be replaced by lighting that would be more sensitive to the surrounding bat habitat. However, without details of the existing baseline light conditions including dark corridors, along with anticipated levels, I cannot establish whether the proposal results in any betterment at the site.
29. In conclusion, I am unable to determine with enough certainty that the proposed development would not have a significant adverse impact on the SAC such that the effect of the proposal on biodiversity, with particular regard to protected species and the SAC would be acceptable. The proposal is therefore contrary to Policies CSP.1 and CSP.2 of the Core Strategy and Policies AP.7 and AP.8 of the Allocations Plan. These require, amongst other things, consideration of the impacts on protected sites and habitats protected by legislation, and to secure appropriate mitigation. Proposals must also safeguard biodiversity corridors and infrastructure. The proposal would also be contrary to the Framework where it requires development to safeguard national and locally designated sites of importance for biodiversity³.
30. The Council's reason for refusal also refers to there being insufficient information to assess the effects of the proposal on the "Severn Estuary". As there is limited information in the officer report and appeal statement to substantiate this, I have not considered this matter.

Employment land

31. The site is currently in commercial use as a transport yard and storage facility. A large commercial building is located at the head of the site close to its frontage and

² Paragraph 99 of Circular 06/2005

³ Paragraph 192 (a), of the NPPF

access onto the A4136. At present there are caravans and camper vans being stored at the site.

32. Policy CPS.7 of the Core Strategy states that land presently used for employment will be expected to remain so, unless allocated for another purpose. In order to encourage this, a range of employment generating uses appropriate to each site will be considered favourably. Where a site is underused and unsuitable (by way of environment or location) for any employment generating use (including service-based uses) then a mixed use may be appropriate (e.g. employment and housing) and failing that an alternative non employment use.
33. The above approach, according to the policy's supporting text, is intended to allow as broad a range as possible of alternative employment generating proposals. It also recognises that sites on established employment estates will not be suitable for all commercial uses in the district.
34. The development of new housing at the site would result in the loss of an existing employment site and use. It is not clear if the existing use for the storage of caravans/camper vans would be relocated or whether the use is currently unviable.
35. A report prepared by property consultants has deemed the site to be unsuitable and its redevelopment for housing would not have a detrimental effect on the availability of commercial land in the district.
36. The consultants indicate that there is sufficient capacity for employment uses on other sites in the district, such as the nearby Vantage Point Business Village and Forest Vale Industrial Estate. However, there is limited information on whether there are units currently available at those sites.
37. The report makes several assumptions that there is no interest in the site being operated by other employment uses or businesses, based on its size, location and facilities, while there are other more favourable sites in the district. However, there has been no marketing or promotion of the site as an employment use or contact made with prospective operators to attract interest.
38. The report considered only a narrow range of possible uses at the site, primarily those relating to storage and distribution, whereas Policy CRS.7 states that a range of employment uses suitable for the site will be considered favourably.
39. Section 5 of the report states that "*the market has peaked for the current time (Quarter 2 – 2022)*". This suggests that market conditions around 2022 informed some of the assessment's financial assumptions. However, given the passage of time that data has likely become outdated and therefore casts doubt on the report's findings. There is also uncertainty regarding the veracity of the report's claim that the building on site is unsuitable for similar or prospective employment uses, as an internal inspection of the building was not carried out.
40. Even if I were to accept the appellant's arguments that the site is underused and unsuitable for employment purposes, Policy CSP.7 also requires alternative mixed uses to be considered at sites. There is limited evidence in the appellant's submission on whether or not this has been deemed feasible or viable.
41. Therefore, based on the submitted evidence it cannot be concluded with any certainty that the appeal site is unsuitable as an employment site in accordance

with the terms of Policy CSP.7. There is also limited information on the availability of sites elsewhere in the district. The loss of the site, even though small in area as a proportion of total employment land in the district would nevertheless result in some minor harm to the availability of employment sites.

42. The Framework promotes the effective use of underutilised land where it would meet a need for housing, particularly in areas where there is an under supply of new homes⁴. However, this is conditional on schemes being compatible with other aspects of the Framework. In this respect my assessment of the earlier main issues found that the proposal would not comply with the Framework where it seeks to promote sustainable forms of transport and the conservation of protected species. Similarly, even if the site is deemed a brownfield site within a settlement, insofar as it relates to the *Wood* judgement⁵, any positive weight in favour of the scheme would need to be balanced against the scheme's harms.
43. Several other schemes in the locality where former employment sites have received permission for redevelopment for housing purposes have been referred to. In the case of Pillowell, there is limited information before me regarding why the site was unsuitable or underused as an employment site and whether or not consideration was given to Policy CSP.7 of the Core Strategy. In the cases of Staunton and Whytecroft, those schemes differed and related to mix-use development and self-build / affordable housing where the policy requirements and considerations would have differed to the appeal before me.
44. In conclusion, the evidence submitted does not justify a finding that the site is underused or unsuitable for employment purposes. Accordingly, the development of the site for housing would have an unacceptable effect on employment land in the district. It would conflict with Policy CPS.7 of the Core Strategy where it requires employment land to be safeguarded unless underused or unsuitable, or developed as a mixed use.
45. The Council's reason for refusal referred to Policy B2 of the MNDP. This was an error on the part of the Council; therefore, I have not referred to it in my conclusion on the main issue.

Other Considerations

46. The Forest of Dean has a persistent and ongoing shortage of housing. The evidence indicates that the current housing land supply in the district is between 1.8 years and 3.32 years. Even if I was to take the higher figure, it is still a mediocre supply. The development of up to 5 dwellings at the site would be a modest yet valuable contribution to the existing supply. Smaller schemes such as this can make an important contribution to the area, would likely be constructed by local companies and can be built out quickly according to the Framework. Therefore, the provision of housing at the site attracts moderate weight in favour of the scheme.
47. There is no dispute between the main parties that the site is PDL. The Framework gives substantial weight to the value of using suitable brownfield land within settlements (*my emphasis*) for homes and other identified needs⁶. Having regard to the *Wood* judgement and the situation on the ground, I do not consider the site

⁴ Paragraphs 125,127,128 of the NPPF

⁵ *Wood v SSCLG and Gravesham BC* [2015] EWCA Civ 195[[2014] EWHC 683 (Admin)]

⁶ Paragraph 125 (c) of the NPPF

to be within a settlement. The site is located within a small cluster of dwellings and is near other similarly sized groups. However, these are somewhat dispersed and separated from one another, and from the built-up part of Mitcheldean. Moreover, there are substantial gaps between the various clusters consisting of trees and green spaces, giving this immediate locality a semi-rural appearance. Therefore, the site does not have the appearance of being within a settlement and its development does not attract substantial weight. Nonetheless, new homes at the site would present an efficient use of a brownfield site and would help preserve greenfield and undeveloped land. Therefore, I afford this significant weight in favour of the proposed development.

Planning Balance

48. I have found that the proposal would be in an unsustainable location that would be reliant on journeys by private motor vehicles to access services and facilities rather than by walking or cycling. The development plan requires consideration of whether the site can be easily accessed by modes other than the private car. The Framework also expects development to prioritise pedestrian and cycle movements. Even though there would be a heavy reliance on journeys to and from the site by car, the appeal site is close to Mitcheldean and trips to access its services and facilities would likely be short in distance and duration. Therefore, the conflict between the proposal and Policies CSP.4, AP.1 and H2 should be given moderate weight in this appeal.
49. The proposal would also conflict with Core Strategy Policy CSP.7 in that it would not maintain an existing employment site or consider a mix of uses on the land. There is also insufficient information to inform the view that the site is underused or unsuitable. The Framework requires that significant weight should be placed on the need to support economic growth and productivity taking into account both local business needs and wider opportunities for development. Nevertheless, the site is small in area as a proportion of the total employment land in the district and its potential loss would incur a minor degree of harm. On this basis and given the conflict with the development plan, this harm attracts moderate weight.
50. In the absence of sufficient information to establish the effect of the proposal on protected bat communities nearby I cannot rule out significant adverse harm to the SAC and the associated conflict with the development plan and Framework. Bats that are protected under the Wildlife and Countryside Act 1981 (as amended), while the information submitted has not demonstrated that Habitats Sites protected under the Conservation of Habitats and Species regulations 2017 (as amended) will not be adversely affected. Accordingly, the proposal constitutes a strong reason for refusal that attracts significant weight.
51. Given the Council's lack of 5 year housing land supply, the development plan for the area is deemed out of date by the Framework⁷, unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. These protected areas include, according to footnote 7 of the Framework, habitat sites such as the SAC, and as I've found that the effect upon it to represent a strong reason for refusal the presumption in favour of sustainable development does not apply in this case.

⁷ Paragraph 11 of the NPPF

52. Notwithstanding this, the Core Strategy pre-dates the Framework, but the policies referred to are broadly consistent with the Framework and should not be treated as being out-of-date.
53. In terms of the scheme's benefits, I have found that the provision of 5 dwellings attracts moderate weight given the ongoing housing shortage in the district. In doing so the scheme contributes to the Framework's objective of boosting the supply of homes. Significant weight is given to the proposal's construction on PDL as this would preserve undeveloped or greenfield land and represent an efficient use of the site. The site is also close to Mitcheldean and future occupiers would likely make frequent journeys, albeit by motor vehicle, to access its services and facilities, thus helping to sustain the viability of the town's amenities. This would attract moderate weight in the scheme's favour. I have given minor weight to the economic benefits associated with the construction phase and future spending of occupiers in the locality.
54. Despite the benefits outlined above the weight attributed to the scheme's harms relating to the loss of an employment site, the proposal's reliance on less sustainable modes of transport and the potential significant adverse impact upon features relating to a nationally designated habitat site, would when taken together, outweigh the proposal's benefits in this case.

Conclusion

55. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

RE Jones

INSPECTOR