



Appeal Decision

Site visit made on 28 August 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 October 2025

Appeal Ref: APP/J3720/W/25/3365882

Sharmer Farm Cottage, Fosse Way, Redford Semele, Warwickshire CV31 1XH

- 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 Banner Properties Warwickshire Ltd against the decision of Stratford-on-Avon District Council.
- The application Ref is 24/01235/FUL.
- The development proposed is demolition of existing buildings and construction of office/light industrial buildings (Use Class E(g)(i) and E(g)(iii)), road improvements, reconfigured parking, associated infrastructure, amenity areas and landscaping including a new pond.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was amended to that given on the original application form in agreement between the main parties, to define the specific parts of Class E applied for. This includes Use Classes E(g)(i) Offices to carry out any operational or administrative functions and E(g)(iii) Industrial processes. No party would be prejudiced by this amended description.
3. Amended plans showing revised access arrangements have been provided with the appeal submission following a Road Safety Audit that was carried out post the Council's decision. The proposed revised plans include widening the access road where it meets Fosse Way and additional passing space along the access driveway. Additionally, a Transport Statement and Arboriculturist Impact Assessment and Method Statement have been provided with the appeal submission.
4. Means of access is a fundamental element of the appeal scheme and has implications for protected trees. Furthermore, the amended plans include land not within the application site or appellant's control and, the access driveway is a shared private drive. The changes are substantive and I cannot be sure that all interested parties involved have had opportunity to comment on them and the submitted supporting information related thereto. Furthermore, the appeal process should not be a means to progress alternatives to a scheme that has been refused or a chance to amend a scheme so as to overcome the reasons for refusal.
5. Consequently, in view of the above and relevant case law¹, there would be procedural unfairness if I were to consider the proposed amended plans. Therefore, I have assessed the appeal scheme on the same plans as the Council made their decision. This includes Site Location Plan drawing No. PL01 Rev B and Proposed

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment (JPL1982) and Holborn Studios Ltd v The Council of the London Borough of Hackney (2017) EWHC 2823 (Admin).

Site Plan, drawing No. PL10 Rev G, which show the whole extent of the appeal site outlined in red and that the site area is under 1 hectare.

Main Issue

6. The main issue in this appeal is the effect of the proposed development on highway safety.

Reasons

7. The access to the appeal site would be from Fosse Way (B4455) via a long shared private driveway. Fosse Way is a busy main road with a 60mph speed limit where the appeal site's access joins it. Although only a snapshot in time, my site observations revealed there is limited visibility at the junction with Fosse Way, particularly in one direction and traffic along Fosse Way was traveling at high speed and fairly constant.
8. The private driveway, which is a shared access, is relatively long and narrow, with passing bays along its length to allow vehicles to pass easily. This could result in vehicles having to reverse onto Fosse Way or wait for extended periods on the highway when turning into the site, particularly having regard to the swept path analysis for larger vehicles entering and leaving the site. Therefore, in view of such, the speed and amount of traffic along Fosse Way, together with the fact that the new development would likely intensify the use of the access, this would likely result in increased accidents on the highway and harmfully affect the free flow of traffic in and out of the site and along Fosse Way. Furthermore, despite that additional transport information was submitted during the consideration of the planning application, the highway authority (HA) maintained its objection to the proposal, as it could not be assured that the appeal scheme would provide an appropriate safe means of access.
9. Based on evidence provided, including speed surveys, the visibility splays at the site access onto Fosse Way could be below the desirable minimum required by Design Manual for Roads & Bridges (DMRB) for a 60mph road, subject to a Road Safety Audit (RSA). It is also asserted that there are no notable recent accident records related to the access junction. However, subsequent to the RSA being carried out, the appeal statement on transport sets out that additional improvements would be required to the access, to widen the access driveway and provide an additional passing place, to ensure the safe movement of traffic, including for HGVs. Furthermore, even though on one side of the access there is a drainage ditch that is likely to remain open, some of the works to improve the access would be on third party land, not within the appeal site or the appellants' ownership.
10. Even though it is asserted the revised access works would be minor, from the evidence provided with the appeal and my site observations, such works are required to provide safe access for the proposed development. Whether some of the required works constitute permitted development or could be undertaken under a s278 Minor Work Agreement, are not matters for my consideration as part of this appeal, including the relevance of the judgements highlighted by the appellant² relating to such matters. Although, I have assessed the proposal on the basis of the proposed plans and, no unequivocal evidence has been provided to demonstrate

² In respect of improvement and alterations: *Cowen v Secretary of State for the Environment, Transport and the Regions* and another (2000) 79 P. & C.R. 457 and, *Mr P. Jones v South Bucks DC* (2011) P.A.D. 32, and in respect of boundaries, *R v United Kingdom Electric Telegraph Co Ltd* (1862) 3 f. & f. 73; *Attorney-General v Beynon* (1970) Ch. 1; and, *Hale v Norfolk County Council* (2001) 82 P. & C.R. 26.

that a s278 agreement would be possible in regard to the status of all of the land required for the access improvement works.

11. Furthermore, while the third party landowner has given written commitment that the access works can be undertaken on their land, this would not ensure that all of the land needed for the proposed revised access arrangements would be maintained available for the appeal development in perpetuity. Consequently, even if a Grampian-style condition were imposed to secure the provision of the access improvements needed, this would not ensure appropriate safe access is maintained for the lifetime of the appeal development.
12. In view of the above, the proposed development would have an unacceptable, harmful effect on highway safety, in conflict with Policy CS.26 of the Stratford-on-Avon Core Strategy (July 2016). Amongst other matters, this policy sets out that development will only be permitted if unacceptable transport impacts which arise directly from that development, including through the submission of a Transport Statement or the implementation of measures arising from it are adequately mitigated.

Other Matters

13. The appeal scheme would provide local employment opportunities and help to address the shortage of appropriate and affordable small commercial premises in the wider local area. It is also supported by the CEO of Warwick District Council. As such, the proposal would provide some positive economic benefits. Additionally, it is asserted that the appeal proposal would provide a high-quality business development and would redevelop a semi-derelict site, providing visual and environmental improvements, including biodiversity net gain.
14. The lack of objections from the Council and consultees in relation to non-highway matters, the actions of the Council during the consideration of the application, and whether pre-application engagement took place are not matters which affect my findings on the main issue. Furthermore, while pre-application advice was sought from and given by the HA following the determination of the planning application, this does not represent the Council's view on the appeal scheme.
15. Issues related to the upkeep of the shared private driveway pertain to a private covenant between the relevant parties and therefore is not a matter for this appeal. Based on the evidence provided, archaeological remains within the appeal site are not demonstrated to be of particular significance, and there is limited local interest and recording of such non-designated assets. Therefore, appropriate mitigation and monitoring of any potential archaeological remains could be adequately controlled by a watching brief in this instance.

Conclusion

16. For the reasons given above, the proposal would conflict with the development plan as a whole and material considerations do not indicate a decision should be made other than in accordance with it.
17. Accordingly, the appeal should be dismissed.

C Billings

INSPECTOR