



Appeal Decision

Site visit made on 16 January 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd January 2023

Appeal Ref: APP/L3245/W/22/3302301

Land lying to the south-east of Gerayne, Higher Heath, Whitchurch, Shropshire SY13 2HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Border Hardwood Limited against the decision of Shropshire Council.
 - The application Ref 22/00491/FUL, dated 1 February 2022, was refused by notice dated 3 May 2022.
 - The development proposed is the change of use of former filling station to timber storage yard (B8 - Storage and Distribution).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A certificate of lawfulness was issued for three discrete parts of the site to be used for open storage in 2001. The certificate confirmed that the material storage was confined to specific heights, with a maximum being 1.5 metres. A subsequent certificate for the storage of pallets of up to 6 metres was refused and subject to appeal. The Council reports that the Inspector, of this appeal, concluded that the use of the site for storage had not been demonstrated. It was also found, by the Inspector, that the previous certificate may have been incorrectly issued.
3. The Council considers that the previous use of the site, for a petrol filling station, has been abandoned with the site now having a nil planning use. Although having limited evidence on this matter, it seems that the petrol filling station use may have been abandoned by the issuing of a certificate for storage use on parts of the site. Nevertheless, it also seems that the storage use of 2001 may also have since been abandoned. It is unlikely that the storage use remains established, following the reported lack of activity on site in the intervening 20 years. As a result, I shall take the planning history of the site into account in my decision as matters of only limited weight.

Main Issues

4. The main issues are:
 - the suitability of the site's location for commercial development with regard to local and national policies, and
 - the effect of the proposed development on ecological interests of the site.

Reasons

Locational suitability of the site

5. The development plan for the district includes the 2011 Shropshire Core Strategy (CS). CS Policy CS6, in regard to sustainable design and development, requires development that is likely to generate significant levels of traffic to be located in accessible locations where users have access to a range of sustainable travel choices. CS Policy CS13 seeks development that, among other matters, promotes Shrewsbury as the main business, service and visitor centre in the sub-region. It seeks to plan and manage a responsive and flexible supply of employment land and premises comprising a range and choice of sites in appropriate locations to meet the needs of business.
6. The 2015 Site Allocations and Management of Development Plan (DP) establishes the Council's Spatial Strategy. This seeks to concentrate development in Shrewsbury, the Market Towns and Key Settlements forming a hierarchical approach for locating development. DP Policy MD4, with respect to employment development, states that employment development will be managed in accordance with the Council's spatial strategies. The first limb of this policy requires such sites to be sustainable. It favours the use of committed or allocated sites or 'other suitable development sites' that include industrial or commercial employment opportunities, be compatible with adjoining uses and satisfy the Council's settlement policy.
7. The National Planning Policy Framework (the Framework) promotes a sustainable pattern of development that meets the development needs of an area and requires development to make efficient use of land in urban areas. It also seeks to support the rural economy whilst recognising the intrinsic character and beauty of the countryside.
8. The appeal site is a triangular parcel of land adjacent to the A41. It is located outside of a settlement and would be reliant on private transport to gain access. It appears that the site would primarily function as a distribution and storage facility. It would therefore be mostly attended by transport vehicles and no members of the public would attend. The site would operate as a satellite facility to the main business in Web. It would be an isolated storage use that would not benefit from the proximity of similar storage and industrial uses. Despite being close to several scattered commercial businesses, the site is not well connected to existing built form or activity. Therefore, it would represent discordant development in the open countryside that would not satisfy the Council's spatial strategy.
9. Although other commercial development is noted along the A41, these are established businesses and may have been subject to a different planning policy context. Their presence does not provide a clear reason to approve a new commercial activity within this countryside location.
10. CS policy CS5, concerned with the countryside and Green Belt, promotes small scale new economic development, subject to several caveats, including that it would deliver local economic and community benefits. However, the proposal would only be in use when timber is delivered or collected from the site in coordination with the main site. In this way the proposed use would operate in

isolation of its surroundings and would be unlikely to deliver tangible benefits to the local economy or community.

11. The site is to the south of Whitchurch. It is not within a Market Town or Key Centre and is within the countryside for policy purposes. Consequently, the site would not meet the Council's settlement hierarchy policy and the proposal would not be within a suitable location due to its countryside location.
12. Accordingly, the proposal would conflict with CS policies CS6 and CS13, DP policies MD2 and MD4 and the Framework for the above reasons.

Ecological interests

13. The Council's second RfR was concerned with the absence of the submission of an ecological assessment. A preliminary Ecological Appraisal was submitted in support of the appeal. This found that the site was of low ecological value. It advises that the harm of development could be mitigated by measures to protect bats against the disruptive external lighting, and hedgehog and breeding bird measures set out in its appendices 2, 3 and 4 respectively.
14. The Council has not responded to this evidence which is therefore undisputed. I am satisfied that the survey has been undertaken by a suitably qualified professional. Furthermore, the mitigation measures are reasonable and describe suitable mechanisms to prevent an adverse effect on local wildlife. The mitigation measures could have been secured by appropriate planning conditions had I been minded to allow the appeal.
15. Accordingly, the proposal would accord with CS policy CS17 and DP policy MD12 and the Framework. These seek, inter alia, for development to protect and enhance the district's natural environment and avoid harm to seek the conservation of its natural assets.

Other Matters

Previously developed land

16. The Framework encourages the reuse of brownfield land within settlements for homes and other identified needs and that they be physically well related to existing settlements.
17. The site was formerly used as a petrol filling station. During my visit I observed that the majority of development associated with that use had been removed. Only the hard standing and some kerb edging remain. This demonstrates the size of the forecourt and the previous location of the building and pumps. The Council has calculated that around 23% of the site was covered by buildings and hardstanding. This measurement is unrefuted by the Appellant, although I recognise that the Appellant considers that the whole site should be deemed as previously developed.
18. The Framework defines Previously Developed Land (PDL) as "land which was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed)".
19. The site, although largely cleared, retains clear evidence of the previous use of the site. Although low lying, these features have not fully blended into the landscape and demonstrate parts of the former use of the site. Whilst the

location of underground tanks is not clearly defined, these would not materially increase the extent of land that would be considered to be previously developed. As such, most of the undeveloped parts of the site are found to its rear in one unified area and consists of the majority of the site. Furthermore, whilst the undeveloped land is partially fragmented around the front edges of the site, this does not alter my view that the area deemed to be PDL is tightly drawn around those areas of hardstanding evident on site.

20. Due to the evidence observed on site I am content that the central areas of the site would be PDL. However, the majority of the site has not been subject to previous development. Also, the parts of the site that were developed are now largely cleared retaining only hardstanding, resulting in a limited visual impact of those parts retained.
21. The proposed development would consist of hardstanding and boundary fencing that would cover a substantially greater area of the site and would expand into areas that have not been previously developed. As a result, whilst the proposed scheme would include some areas of PDL, the proposed development would largely extend into areas of the site previously undeveloped. As such, most of the proposal would not occur on PDL.
22. Furthermore, even if the entire site were found to be PDL, the site would not relate well to an existing settlement and would fail to satisfy the locational requirements of the Framework for the reuse of such land.

The needs of the Appellant

23. The Appellant explains that the proposed use is required for a timber storage business which is currently based in Wem and specialises in European Oak. The business is grounded on having stock immediately ready for distribution across the UK. Recent changes in markets have required the business to alter how it operates and increase its capability to store more stock. It has already expanded into two adjacent industrial premises on the Wem Industrial Estate but has now also outgrown these premises. It is also recognised that locating on several separate sites would benefit the business from an insurance standpoint.
24. The appeal site would offer the required additional storage land required, being within a short drive of the main site. However, the Appellants have provided insufficient evidence to demonstrate that a robust site search criteria has been undertaken to result in the appeal site being preferred. Furthermore, these benefits would be gained through the use of any suitable site within the search area.
25. The proposed expansion of the business is predicted to increase employee numbers from 23 to 30, by the end of 2030, if further storage space is found. Also, Prees Parish Council has lodged its support for the proposal.

Visual effects

26. The front boundaries of the site, onto both the A41 and the B5065, are mostly open with limited boundary hedging or tree cover. As such, the site is exposed to views from the public realm. Due to the absence of built form on site the limited remaining evidence of development retained is discrete and visually non-invasive. It therefore does not materially detract from the character and appearance of the area. Accordingly, the site currently has an uncluttered and

open aspect that contributes positively to the character of the surrounding countryside landscape.

27. In contrast the proposed development would enclose the site and erode its open character. The proposed boundary landscape screening, and limitation on the height of stored materials, would reduce this visual effect. Nevertheless, , the proposed landscaping would not materially enhance the appearance of the site resulting in a visual benefit to the site and its surroundings. Consequently, these measures would not address the visual impact of the proposed development.

Planning balance and conclusion

28. The Framework seeks to support a prosperous rural economy. It requires planning decisions to enable the sustainable growth and expansion of all types of business in rural areas. The operational needs of the Appellant's business, and its anticipated increase in employees, are issues of modest weight in favour of the proposal. The additional planting, and defined mitigation measures, would deliver some ecological benefits to local wildlife. Furthermore, the site being located on the strategic road network would assist with the accessibility of the site for the business. These merits would be of some, albeit modest, benefit in favour of the proposal.
29. Nonetheless, based on the evidence before me, the site does not represent the expansion of an established storage use and would only relate to a site that has been partially previously developed. The proposed use would conflict with the Council's spatial strategy and would include development that would be intrusive in its countryside setting within an exposed location.
30. Consequently, the proposal would conflict with the development plan when taken as a whole, and there are no material considerations that would outweigh this conflict. For these reasons, the appeal is dismissed.

Ben Plenty

INSPECTOR