



The Planning Inspectorate

Appeal Decision

Site visit made on 7 May 2019

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27th June 2019

Appeal Ref: APP/V2255/W/19/3221646

Land rear of Unit 5, Stickfast Farm, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP

- 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 Mr Harry Stockwell, Grovehurst Cars Ltd against the decision of Swale Borough Council.
 - The application Ref 18/502358/FULL, dated 1 May 2018, was refused by notice dated 8 August 2018.
 - The development proposed is described as to park and store and sell used cars and light commercial vehicles in connection with MOT service facility.
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Decision

1. The appeal is allowed and planning permission is granted to park and store and sell used cars and light commercial vehicles in connection with MOT service facility at Land Rear of Unit 5 Stickfast Farm, Sheppey Way, Bobbing, Sittingbourne, Kent, in accordance with the terms of the application reference 18/502358/FULL, dated 1 May 2018, subject to the schedule of conditions attached.

Procedural Matters

2. The address shown in the banner above is taken from the Council's Decision Notice. This is incorrect and should read as per the appeal form, Land Rear of Unit 5 Stickfast Farm, Sheppey Way, Bobbing, Sittingbourne, Kent ME9 8QP. The appellant has indicated that the site boundaries edged red shown in the plan submitted alongside the application is incorrect and the correct site boundary is shown in drawing reference 1477/1, submitted as part of the the appeal. The Council's officer report considers the site to be the area enclosed within the existing palisade fence line which is the same as the red line shown on drawing 1477/1. On the basis that accepting the amended plan would not be prejudicial from a public consultation point of view, or lead to a fundamentally different scheme, I have based my decision on the amended drawing 1477/1.
3. Based on my site visit, whilst there was evidence of cars being stored within the enclosed area formed by the palisade fencing, there was no clear evidence that these cars were being sold from the site or that they were being stored in connection with the MOT use of Unit 5. Therefore, I have determined the appeal on the basis that development proposed is not retrospective.

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Main Issue

4. The main issue is the effect of the development on the character and appearance of the countryside including when viewed from the adjacent public right of way.

Reasons

5. The application site comprises land to the rear of Unit 5 which is a small industrial unit located on a small commercial industrial estate. The appeal site falls within land designated as countryside.
6. Unit 5 is located towards the rear of the estate: the storage area to the rear is not visible from the main highway and is only partially noticeable from the concrete apron at the front of the terrace of units. In the context of its wider surroundings, Unit 5 forms part of a terrace of other small commercial units and immediately adjacent to the appeal site, across a public right of way there is a relatively large agricultural storage building and farm worker accommodation comprising mobile homes and its associated car parking. Immediately to the rear of the appeal site is also land designated as countryside and which appears to be in agricultural use.
7. Running along the boundary of the flat storage area at the rear of Unit 5, which would be used for the storage and sale of cars associated with the MOT service operating out of the unit, is a metal palisade fence which is approximately 2 metres in height. The evidence before me indicates that the palisade fence has been in place longer than four years: the Council state that it is immune from enforcement action and it is therefore is lawful.
8. Whilst the parties dispute whether the area to be used for storage purposes is lawful or not, the photographic evidence submitted by the appellant indicates that for a period of more than ten years it was used for a variety of uses, including what appears to be a storage use. The appellant states that in 2008 the palisade fencing was erected for security reasons, due to thefts of equipment stored on the site. Either way, it is reasonable to conclude from the evidence submitted that the site was used for a range of uses, including storage, since 2007. Prior to that it would appear to have been in agricultural use.
9. Based on my site visit observations, which included the storage of a number of cars within the fenced area, it was evident that the palisade fencing was the most prominent and conspicuous element on the site, particularly when viewed from the adjacent public right of way. Whilst I acknowledge that stored cars are partially visible from the public right of way, I do not consider that they would appear materially out of place or visually intrusive within this contained site and to the rear of the commercial units.
10. Based on my own site visit observations of the appeal site when viewed from the public right of way and from the concrete apron at the front of the commercial units, the appeal site is seen in the context of the adjacent agricultural building which has a significantly greater visual impact than the palisade fencing and the area which would be used for car storage. Therefore, I consider that the appeal development would appear visually subservient in the landscape setting relative to the more prominent and visible agricultural buildings in the immediate locality.

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11. The appellant has submitted a proposed landscaping scheme and has also indicated that he would accept a condition limiting the height of any vehicle stored on the site. I am satisfied that this would mitigate the visual impact and prominence of cars stored on the appeal site when viewed by users of the adjacent public right of way and other public areas. Indeed, it would seek to ensure that the character and appearance of this countryside location is preserved. Subject to the imposition of such planning conditions, the resultant development would not have a significant detrimental effect on the character and appearance of this countryside location.
12. I have also taken into account policy CP1 of the adopted Swale Borough Local Plan Bearing Fruits 2031 (2017) (LP) which aim to support businesses and particularly those located in a rural location. I also note that the operation of Unit 5 is linked to another commercial operation nearby, which is reliant on the appeal proposals to support further growth, diversification of its business and the maintenance of a number of local jobs. These are matters which weigh in favour of allowing the appeal.
13. For the collective reasons outlined above, I conclude that subject to the imposition of planning conditions the storage and sale of vehicles on the land to the rear of Unit 5 would not have a significantly adverse effect on the character and appearance of the countryside and would not cause any material harm to enjoyment of users to the adjacent public right of way. Therefore, the development would accord with policies ST1, CP4, DM3 and DM14 of the LP which amongst other things seek to deliver sustainable development, build a strong economy, encourage good design and landscaping proposals and support businesses in rural areas.

Conditions

14. The Council suggested a number of planning conditions which I have assessed taking into account the tests as outlined in paragraph 55 of National Planning Policy Framework. Where appropriate, I have amended the conditions in the interests of precision and necessity.
15. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty. I have therefore imposed a condition to this effect.
16. In the interests of the living conditions of occupiers of nearby properties, and the peaceful enjoyment of the countryside and nearby public footpath, it is necessary to impose a planning condition relating to the hours of use of the site by visiting members of the public. In the interests of ensuring that there is appropriate control in terms of use of the site from a living conditions and countryside impact point of view, there is exceptional justification for confining the permission to only the use as applied for.
17. In the interests of the character and appearance of the area, planning conditions are necessary in respect of landscaping, lighting and the maximum height of vehicles to be stored/parked on the site.

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Other Matters

18. I have had regard to the comments raised by concerned parties and consider that the conditions imposed would provide an effective mechanism in relation to effects of parked vehicles and operating hours.
19. The Council has asserted that if the open storage and sale of vehicles was allowed this would set a precedent and that other planning applications for development would be submitted on land surrounding the appeal site. I have determined this appeal on its individual planning merits and, in any event, I am not aware that there are other sites nearby which have the same planning history. Therefore, none of the other matters raised alter or outweigh my conclusion on the main issue.

Conclusion

20. For the reasons set out above, and taking into account all other matters raised, the appeal should be allowed.

Paul Wookey

INSPECTOR

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Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1477/1 and 1447/2.
3. No floodlighting, security lighting or other external lighting shall be installed or operated at the site, other than in accordance with details that have first been submitted to and agreed in writing by the Local Planning Authority. These details shall include:
 - A statement of why lighting is required, the proposed frequency of the use and the hours of illumination
 - A site plan showing the areas to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features.
 - Details of the number, location and height of the lighting columns or other fixtures.
 - The type, number, mounting height and alignment of the luminaries.
 - The beam angles and upwards waste light ratio for each light.
 - An isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties.
4. The site shall not be open to the public other than between the hours of 7am to 7pm on weekdays and Saturdays, and not at all on Sundays or Bank Holidays.
5. The site hereby permitted shall be used for the storage and sale of vehicles only and for no other uses whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not.
6. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. The landscaping works shall be carried out in accordance with the approved details before any part of the development is brought into use

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in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

9. No vehicles shall be stored on the site above a height of 1.5 metres.