

GREAT SHEFFORD 16/02954/FUL  Pins Ref 3176451	Wessex Saw Mill Wantage Road Great Shefford J Passey and Sons	Change of use of Old Wessex Saw Mill from the repair, storage and sale of agricultural and heavy goods vehicles to an animal by- product, intermediate plant and horse cremation facility.	Delegated Refusal	Allowed 9.1.18
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### Decision

The appeal is allowed and planning permission is granted for the change of use of Old Wessex Saw Mill from the repair, storage and sale of agricultural and heavy goods vehicles to an animal by-product intermediate plant and horse cremation facility at Wessex Saw Mill, Wantage Road, Great Shefford, Hungerford RG17 7DQ in accordance with the terms of application Ref 16/02954/FUL, dated 25 October 2016 and in accordance with the 15 conditions in the attached Schedule.

### Main Issues

The main issues in this case are the effect of the proposal on:-

- the biodiversity and geodiversity of the area, including the River Lambourn Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), having particular regard to foul and surface water drainage;
- the living conditions of nearby occupiers;
- the landscape character of the area, including the North Wessex Downs Area of Outstanding Natural Beauty (AONB) and its enjoyment by users of nearby public rights of way.

### Reasons

The proposal includes a disposal service for fallen animal carcasses and the cremation of horses. The operation of the facility would entail the collection and the return to site of fallen stock. On site, the fallen stock would be stored temporarily in a covered skip in the main building, whilst awaiting onward transfer for incineration at regulated facilities elsewhere. The cremation of horses would be likely to occur between 2 and 3 times a week and the incinerator which would be served by a chimney stack which would be approximately 7.81 metres in height.

#### *Biodiversity and Geodiversity*

The appeal site is located within Flood Zone 1 to the north of the River Lambourn SSSI and SAC which the appellants have calculated to be 2.5 kilometres distant. SAC are afforded protection under the EU Habitats Directive (92/43/EEC) and the Conservation of Habitats and Species Regulations 2010. SSSI are afforded protection under the Wildlife and Countryside Act 1981 (as amended).

One of the aims of Policy CS 16 of the West Berkshire Local Plan, West Berkshire Core Strategy (2006-2026) (CS) is for development to manage surface water in a sustainable manner and where possible provide benefits to water quality, biodiversity and amenity. CS Policy CS 17 seeks to conserve and enhance biodiversity and geodiversity. Saved Policy OVS.5 of the West Berkshire District Local Plan (LP) has similar aims and states that development will only be permitted where it would not give rise to unacceptable pollution of the environment.

Paragraph 109 of the National Planning Policy Framework (the Framework) states that the planning system should contribute to and enhance the natural and local environment by, amongst other matters, recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible; and preventing new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution. Paragraph 120 of the Framework states that to prevent unacceptable risks from pollution ... planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area ... should be taken into account.

The Council and interested parties are concerned that there is the potential for activities upon the site to pollute ground water within the locality, including the aquifers below the site which would be harmful to the River Lambourn SAC and SSSI.

To address such concern, the appellants have indicated that they would install a new drainage system upon the site. This system would include new surface water drains with grit and silt separators and the provision of a reed bed. The existing septic tank on the site would accommodate waste water from the proposed office use, and an above ground waste water storage tank located outside of the building would be installed to accommodate other waste water from the site including that from the washing down and disinfecting of vehicles once they have been unloaded. Whilst indicating within the planning application that this would be second hand, the appellants have indicated that a new tank would be installed.

It is asserted by the Council that contamination from vehicles transporting carcasses would be likely to pollute nearby watercourses. This concern has not however been substantiated. In any event, it is reasonable to assume that containers transporting animals are sealed and the likelihood of waste seeping from them would be low. The appellants submit that the transportation of animal by products would be by licenced transportation companies which are governed by other legislation outside of the planning system. The Inspector had no evidence before him to doubt the effectiveness of other regulatory controls which would apply to such operations.

The Council and Environment Agency did not raise flood risk as a specific concern in respect of the proposal. Local residents have however expressed concern that during times of flood, pollution to ground water sources and nearby bore holes would be likely to occur. A photograph submitted in evidence shows water upon the site.

Whilst considering that the flood event shown in the photograph was the result of a blocked culvert, the appellants have indicated that they would widen, deepen and re-profile the existing ditch and provide an overflow ditch to reduce flood risk to the site. Material from the works to the ditch would be added to the existing bund to provide additional flood protection. The proposed works to nearby ditches would be likely to reduce the risk of flooding upon the site and the associated risk of pollution to water sources. In considering this matter, the Inspector noted that the Environment Agency and the Council raised no objections in this regard.

Representations have been submitted that the ditch to the south of the site falls outside of the control of the appellants. Whilst noting this matter, the Inspector considered the appeal proposal on its merits. In the event that the proposal includes land outside the control of the appellants, the granting of planning permission does not allow development to take place upon such land without the necessary consents being obtained. Accordingly, his decision did not turn on this matter.

In light of the foregoing, the advice from the Environment Agency and Natural England, and in the absence of convincing evidence to demonstrate otherwise, he was satisfied that the proposed drainage measures would reduce the likelihood of contaminants from the activities on the site entering ground water sources in the locality, including nearby boreholes. Even if a second hand waste water storage tank was used, its design above ground would allow the operators of the site to detect any defects in this system. This would be unlikely to be the case if it were underground. The Inspector therefore found that the proposal would be unlikely to have an adverse effect upon the biodiversity and geodiversity of the area or result in harm to the conservation value of the River Lambourn SAC and SSSI. There would be no conflict with the aims of CS Policies CS 16, CS 17 and LP Policy OVS.5 or the biodiversity objectives of CS Policy CS 14. The statutory tests would be met.

#### *Living Conditions*

Amongst other matters, CS Policy CS 14 requires development proposals to make a positive contribution to the quality of life in West Berkshire. This policy recognises that good design relates not only to the appearance of a development but the way in which it functions.

It had been put to him that the proposal would have an adverse effect on the living conditions of nearby occupiers, as a result of odours from the site and air quality, including from outdoor storage of containers and from the cremation of horses.

The closest residential property to the appeal site is Wessex Rise, which adjoins the southern boundary of the site. Although not shown on the submitted drawings to be within the appellants' control, the Council has indicated that Wessex Rise is tied to the appeal site by way of a legal agreement. This is not disputed. The Council has indicated that as a result, the proposal would be unlikely to have an adverse effect upon the living conditions of occupiers of this property.

There are a number of other properties within the locality, with the closest being Trindeldown Farm which is approximately 200 metres from the appeal site.

There is the potential for odours from animal carcasses polluting air quality which could be detectable over a wide area. The appellants have however indicated that animal carcasses would not be stored outside of the building. By being stored within the building, odours from animal carcasses would be contained and would be unlikely to be detected outside of it. An odour elimination system is proposed and measures contained within an Odour Management Plan (OMP) would be implemented. The Council would be able to ensure that both the odour control system and OMP was suitable for the proposed use.

In terms of fumes from the proposed incinerator, the appellants submitted a report<sup>1</sup> with the planning application which assessed the impact of its use on air quality in the locality, including at nearby residential properties. The report found that fumes from this process would be unlikely to result in complaint from nearby occupiers. Whilst noting the concerns raised by nearby occupiers, the Inspector noted that the Council's Environmental Health Officer found that the incinerator would have a low impact on local air quality. In the absence of substantive evidence to demonstrate otherwise, he had no reason to find differently in this regard.

Concern has also been raised about the hours that the facility would operate. The appellants have indicated within their report that although they would offer a call out service 24 hours a day, the operation of the business on the site would be from 09:00 to 17:00 Monday to Friday. The Inspector noted that the Council did not raise this matter as a specific concern. He found that the hours proposed would not commence unreasonably early in the morning, late at night or at the weekend when nearby occupiers would be at home. They are therefore reasonable and would be unlikely to have an adverse effect upon living conditions.

The Inspector also noted the concerns raised about the operation of the appellants' existing facility near Newbury, however the appeal proposal is on a different site, some distance from this facility. He was obliged to determine the appeal on the planning merits of the case, and the operation of a similar business elsewhere carries very limited weight in his consideration of this case.

Whilst he noted nearby occupiers concerns about the impact of odours and fumes, and the suitability of the odour control system and incinerator, the Inspector was satisfied on the basis of the evidence before him that the proposal would be unlikely to result in levels of odours or pollution that would be harmful to the health or living conditions of nearby occupiers. The location of the storage of carcasses, type of odour and fume control systems and the OMP could be controlled by planning conditions. He therefore concluded that there would be no conflict with the aims of CS Policy CS 14 or with the Framework's core planning principle which seeks to secure a good standard of amenity for all existing and future occupiers of land and buildings.

#### *Landscape Character and Enjoyment of the Countryside*

The appeal site is located within the North Wessex Downs AONB. It is included within Character Area 1b: Lambourn Downs of the North Wessex Downs Integrated Landscape Character Assessment (March 2002). The character of the Lambourn Downs is described as 'largely created by the strong structural landform and the spacious rolling topography typical of the Open Downlands. Long views can be gained across a series of subtly receding ridges, which form strong open horizons.'

Policies of the development plan, namely CS Policies CS 19 and CS 14 require development to be informed by the wider context and conserve and enhance the diversity and local distinctiveness of the landscape character of the area. Policy CS 19 also requires new development to be appropriate in terms of location, scale and design to the existing settlement form, pattern and character. Area Delivery Plan Policy 5 of the CS sets out the Council's strategy for the AONB, including the economy, housing, and the environment. This policy supports small, local businesses in the AONB and requires development to conserve and enhance local distinctiveness, respecting landscape features and natural beauty.

At paragraph 115 the Framework states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and AONB, which have the highest status of protection in relation to landscape and scenic beauty.

There is no dispute that the proposal would support a local business. The Council is however concerned that the proposed use would not maintain or enhance the AONB. CS Area Delivery Plan Policy 5 states that characteristics of the AONB include its tranquillity and dark skies. In terms of the processing on the site, whilst

vehicles would arrive and depart throughout the day, including larger vehicles carrying containers, he was not convinced that the frequency of movements or the size of vehicles would be materially different to those associated with the permitted use of the site. In terms of the processing that would take place on the site, no convincing evidence has been provided that this would have an adverse effect upon the tranquillity of the area. Indeed he noted that the AONB Planning Advisor raised no objection to the principles of the change of use of the building. Lighting upon the site could be controlled by planning condition to ensure that the area's dark skies were preserved.

Turning to the buildings upon the site, their appearance would change primarily as a result of the incinerator flue. This would be taller than the existing building. However the submitted drawings indicate that it would not project significantly above the existing ridge line. From his observations and as a result of the local topography and landform, he considered that the change to the building and the visual impact of the flue would be principally confined to the site and the immediate surrounds, including from the Wantage Road, in close proximity to the site. The flue would not be prominent in the wider landscape.

Whilst the appearance of the building would change as a result of the flue, this would not be significant. He was satisfied that the scheme would not adversely affect the landscape or scenic beauty of the AONB or the landscape qualities of the area as a result.

Whilst acknowledging the Council's concern that the appellants' Landscape and Visual Impact Assessment did not assess the impact of the proposal from nearby public rights of way, given his findings above, the Inspector found that harm to the enjoyment of the countryside would be unlikely to result from the use of the appeal site or the visual impact of the building.

In light of the foregoing, he concluded that the proposal would conserve the landscape character of the area and the AONB and would not have an adverse effect upon the enjoyment of the countryside by its users. The proposal would support a local business and the nature and scale of the proposed use in an existing building with limited alterations would not materially impact on the visual or spatial qualities of the area. There would be no conflict with the aims of CS Policies CS 14, CS 19 or Area Delivery Plan Policy 5. Furthermore there would be no conflict with the AONB aims of the Framework.

## **Other Matters**

### *Local Businesses*

It is submitted that the proposal would have an adverse effect on nearby businesses including horse racing yards. It is acknowledged that policies of the development plan support the equestrian and racehorse industries in the area. However, the Inspector had not been provided with convincing evidence that the proposal would have an adverse effect on the local economy in terms of employment opportunities or the success of local businesses. He noted that the Council reached a similar conclusion in this regard.

The risk of disease concerns to livestock close to the site has not been substantiated, nor has the effect of the scheme on horses including race horses nearby. He therefore could only attach very limited weight to these matters in his consideration of the proposal.

### *Highway Safety*

Concerns have been raised about the suitability of the access to serve the scheme. He observed that visibility at the access was good in both directions at the time of his site visit so vehicles exiting the site would be able to see other road users in the highway and vice versa. Furthermore, there is an apron to the front of the site which would allow vehicles to pull off the road before accessing it. In the event that the gates to the premises were closed, vehicles using it would be able to drive onto the apron off the highway whilst waiting for them to be opened. Vehicles accessing the premises would not therefore be stationary in the highway whilst waiting to access the site.

Local residents consider that the local road network would not be able to accommodate traffic associated with the proposal safely. Reference is made to the 'S' bends and footway provision in Great Shefford. Whilst noting this matter, the Wantage Road is a main road through the area and he had not been provided with convincing evidence to demonstrate that the local highway network could not accommodate vehicles associated with the development safely. It is noteworthy that the Highway Authority raised no objections to the appeal scheme and having regard to his findings, he had no reason to find that harm to highway safety would occur as a result of the proposal.

### *Effect on Bats*

No substantive evidence has been provided to substantiate this concern and the Inspector noted that the Council did not include the effect on protected species as a reason for refusing the planning application.

### *Whether EIA Development*

Representations have been submitted that the proposal comprises Schedule 2 development under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The application form indicates that the floor area of the proposal would be 453 metres squared. This falls below the threshold set out in Schedule 2 of the Regulations for a knackers yard. On this basis he was satisfied that it was not necessary for the appellants to submit a screening opinion for the proposal. The Council and appellants found similarly when asked this question during the course of the appeal.

### *Asbestos in Building*

It is submitted that there is asbestos within the building. Whilst noting this matter, the removal of such material is regulated by other legislation and does not form part of his consideration of the proposal.

### **Conditions**

The Council has suggested a number of conditions that it would wish to see imposed in the event that the appeal was allowed. The Inspector had considered the suggested conditions against the guidance on conditions set out in the Planning Practice Guidance and the Framework at paragraph 206.

In the interests of biodiversity and geodiversity a condition is necessary requiring a monitoring and management schedule associated with the existing and proposed foul drainage systems. A condition is also necessary in respect of surface water drainage works to ensure that the proposal does not result in flood risk.

In the interests of pollution control a condition is necessary requiring an assessment to be made in respect of any contamination on the site, along with necessary mitigation.

In the interests of living conditions and pollution control, conditions are necessary to prevent external storage of containers and vehicles with carcasses in or on them, controlling the number of storage containers on the site and the length of time they can be stored. Conditions are also necessary requiring details of equipment to control the emission of fumes and odours from activities on the site and their implementation, and the submission and implementation of an OMP. To protect the character and appearance of the area, conditions are necessary requiring a landscaping scheme to be submitted, implemented and maintained, and to control external lighting.

Although not suggested by the Council, a condition requiring that the development is carried out in accordance with the approved drawings is necessary to ensure that the scheme is developed as approved.

The condition suggested by the Council's Environmental Health Officer to cease the activities at the appellants' existing operation is not reasonable and the Inspector had therefore not attached such a condition. On the basis of the evidence before him that Wessex Rise is tied to the appeal site, it is not necessary to control the occupation of this property by planning condition.

### **Conclusion**

For the above reasons, and having regard to all other matters raised, the appeal is allowed.

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