

<b>Application No:</b> 12/00382/F	<b>Ward:</b> Fringford	<b>Date Valid:</b> 21/03/2012
<b>Applicant:</b>	Bicester Sweepers Ltd.	
<b>Site Address:</b>	Land and Building at Glebe Court, Stoke Lyne Road, Fringford	

**Proposal:** Change of use of land from agricultural to the parking of commercial and agricultural vehicles, change of use of an agricultural building to mixed commercial and agricultural use, installation of a temporary storage and dewatering facility for wet street sweepings and a commercial vehicle washing facility

**Date site visited:** 03/04/2012

### 1. Site Description and Proposal

- 1.1 The site forms an agricultural unit on the outskirts of Fringford. The site contains a barn, hardstanding and a bund to the south of the barn. The site is accessed off Stoke Lyne Road via a metalled road to the east of the site although an access to the west of the site is also available. To the rear of the site is another barn that is currently in commercial use and owned by the applicant. To the south of the site are two residential properties (1 & 2 Glebe Farm Cottages) and to the east are further residential properties, one of which is occupied by the applicant.
- 1.2 The proposal seeks to change the use of the land and barn from agriculture to a mixed use for agriculture and commercial uses associated with Bicester Sweepers Ltd. In addition to this, the applicant seeks permission to install a temporary dewatering facility for wet sweepings. A commercial vehicle washing area is also proposed.
- 1.3 The site lies within a rural location and is within an Area of High Landscape Value.

### 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice erected at the entrance to the site. The final date for comment was 26<sup>th</sup> April 2012
- 2.2 4 letters of representation received. Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Noise and disturbance as a result of the commercial activities;
- Barn was required for agricultural purposes;
- Bunds and hard surface are retrospective;
- Use of eastern access causes noise and disturbance to residential properties;
- Increase in vehicle movements; and
- Impact on the character and appearance of the area.

### 3. Consultations

- 3.1 **Fringford Parish Council** wishes to object to the proposal for the following

reasons: Enlargement of commercial use. 102 commercial vehicle movements (at least) entering and leaving site. This will disrupt local homes and adjacent leisure area which should be assumed a quiet environment. In agreement with previous refusal (08/02142/F).

- 3.2 **Environment Agency** comment as follows: No objections to the proposed development provided that all vehicle washing and waste storage is situated on an impermeable surface with a sealed drainage system.
- 3.5 **OCC Highways** comments yet to be received. Will be reported at Committee
- 3.9 **Head of Public Protection and Development Management** (Anti Social Behaviour): Further to your consultation of 29/03/12 I can confirm that the Anti Social Behaviour Team has received information alleging breaches of the current hours restrictions imposed by planning condition on use of parts of the site. These reports relate to operations carried out before and after the permitted hours and on days when activity is not permitted. The same reports also refer to the pressure washing of vehicles.
- 3.10 The contents of these reports have been reviewed and the incidents referred to have been considered in terms of whether individually or collectively they are sufficient to suggest that a Statutory Nuisance from noise is occurring. Having concluded that, due to the frequency of occurrence, time of occurrence and duration of individual noise events, a Statutory Nuisance from noise was not indicated details were passed to the Planning Enforcement Team. What these reports do call in to question is the applicant's ability to comply with the hours of operation condition suggested in the supporting documents submitted with this application.
- 3.11 The proposal to provide an impervious area with a sealed drainage system where the pressure cleaning of vehicles can be carried out will clearly address the concern over this activity.
- 3.12 It is also worthy of note that the Anti Social Behaviour Team has, historically received noise complaints relating to the operation of compressed air equipment located to the rear of the building described in the application submission as 'Lawful workshop'. Although this building does not form part of the detail of this application I would anticipate that as the level of activity on the site is likely to increase and this would be a good opportunity to relocate this item of equipment so that it is acoustically enclosed within the workshop building.
- 3.13 In conclusion I am of the opinion that the site can operate without causing nuisance to the occupants of neighbouring properties provided that the proposed hours of operation condition is strictly observed.

#### **4. Policy Considerations**

##### **National Planning Policy Framework**

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

- 3: Supporting a prosperous rural economy
- 4: Promoting sustainable transport

8: Promoting healthy communities  
11: Conserving and enhancing the natural environment

**South East Plan 2009** CC6: Sustainable Communities & Character of the Environment  
NRM10: Noise

**Adopted Cherwell  
Local Plan 1996  
Saved Policies** EMP4: Employment in rural areas  
C7: Landscape conservation  
C8: Sporadic development within the countryside  
C13: Areas of High Landscape Value  
ENV1: Pollution Control  
TR10: Heavy goods vehicles

## 5. Appraisal

5.2 The key issues for consideration in this application are:

- Policy Context
- History
- Noise and disturbance
- Impact on the character and appearance of the area
- Supporting a prosperous rural economy and sustainability

### 5.3 Policy Context

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, the promotion of healthy communities and the conservation and enhancement of the natural environment.

5.4 Policy EMP4 of the Adopted Cherwell Local Plan 1996 states that proposals for new employment generating development of the following types will normally be permitted:

- (A) Within an existing acceptable employment site, including redevelopment;
- (B) Conversion of an existing building or group of buildings;
- (C) Within, or adjoining settlements, for a minor extension to an existing acceptable employment site.

Provided that,

The proposal and any associated employment activities can be carried on without undue detriment to the appearance and character of rural landscape and without harming the amenities of settlements or the special character and interest of a building or architectural or historic significance;

The NPPF also recognises the importance of a prosperous rural economy and states at paragraph 28 that planning policies should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.

## 5.5 History

The site and surrounding land within the ownership of the applicant have been the subject of a number of planning applications and enforcement action. Specifically, the barn that is the subject of this application was granted permission under application 05/02247/AGN for a 'general purpose agricultural building'. The building was approved in 2006 using an agricultural notification, rather than a planning application, as the building was considered reasonably necessary for the purposes of agriculture.

- 5.6 Following the approval of the notification it came to the attention of the Local Planning Authority that the building was being used for commercial purposes instead of the agricultural use approved. As a result, an enforcement notice was served on the site in March 2008. The notice was issued as it was considered that the change of use caused harm to residential amenity. The matter which constituted a breach of planning control was 'the change of use of the land and the barn from agriculture to the use for the parking, repairing and servicing of commercial vehicles'. No appeal against the notice was made so the notice came into effect on the 16<sup>th</sup> April 2008 and remains on the land and is effective.
- 5.7 The applicant sought to regularise some of the matters in 2008 with the submission of application 08/02142/F which sought permission for the construction of a vehicle and plant washing area including hardstanding for parking of plant and equipment, interceptor and associated drainage. This application was refused permission on 25<sup>th</sup> March 2009 for three reasons relating to impact on residential amenity, unsustainable location and impact on the character and appearance of the area. No appeal against this decision was made.
- 5.8 The applicant owns a further barn to the north (rear) of the application building. This building was granted a certificate of lawfulness for the repair and servicing of commercial vehicles under application 10/00460/CLUE. The certificate however restricts the operation of the building to 0700 – 1800 Monday to Friday, 0700 – 1300 Saturday and no working Sunday or bank holidays. The current lawful commercial activities at the site are therefore relatively low key as the certificate also restricts the repair/maintenance of plant/road sweepers to no more than 8 vehicles per fortnight. The applicant also owns and operates Glebe Farm camping and leisure to the east of the site.
- 5.9 The applicant states that the purpose of the application is 'an extension to an existing, lawful use rather than a new, isolated commercial use in the countryside.' and continues by stating that the 'development proposal is therefore to be considered as an expansion of vehicle maintenance and repair facilities, the use of adjacent land for a commercial vehicle washing area and temporary storage of street sweepings, and an adjacent area of hardstanding for parking associated with commercial vehicle maintenance, washdown and the unloading of street sweepings'. Therefore, the proposal is essentially for the creation of a depot whereby vehicles used for Bicester Sweepers Ltd. are repaired, maintained, washed down, emptied and parked overnight.
- 5.10 Pre-application advice was provided for the proposal whereby the applicant was advised that it would be for the applicant to demonstrate that the proposed use would not have a detrimental impact on the character and appearance of the area or the amenities of adjoining residential occupiers, as was detailed within the enforcement notice. Provided that this was the case, it was expected that the local

planning authority would support an application for a change of use.

**5.11 Access and highway safety**

OCC Highways have yet to comment.

**5.12 Impact on residential amenity**

The Anti-Social Behaviour Manager has commented that the site has been the subject of investigations which has revealed noise nuisance from the site. Although the noise from the site does not amount to a statutory nuisance it is clear that the existing commercial uses cause harm to the amenities of neighbouring properties through noise and disturbance caused by vehicles and their repair/maintenance.

- 5.13 Policy ENV1 of the Adopted Cherwell Local Plan 1996 states that developments which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution will not be accepted.

The NPPF supports this stance and advises that one of its core principles is to ensure that a good standard of amenity for all existing and future occupants of land and buildings is provided. Moreover, it also states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Therefore, policy ENV1 of the Adopted Cherwell Local Plan 1996 is entirely consistent with the advice within the NPPF.

- 5.14 The applicant acknowledges that the lawful commercial site generates eight vehicle movements per week and provides details that the proposed development would generate some 102 movements per week. It is intended to utilise the barn for the repair and maintenance of non-agricultural vehicles along with the storage of limited agricultural machinery and equipment used at the leisure site.

- 5.15 The applicant states that 18 vehicles will visit the site each week for repairs and servicing. A further 18 vehicles will visit the site to use the proposed vehicle wash area and the dewatering facility. Two tar tankers will visit the site and a further HGV vehicle. Other commercial vehicles are also referred to. All figures provided are indicative and there are no assurances that these figures will not rise.

- 5.16 The use of the lawful building to the rear has been the subject of investigations by the Anti Social Behaviour Manager, although he confirms that the noise witnessed does not amount to a statutory nuisance. Concerns are also raised over the applicant's failure to comply with time restrictions at the site (see paragraph 5.8 above). The Planning Enforcement Team have also investigated the site for failing to comply with the terms of the enforcement notice, the hours of restriction and vehicle numbers allowed under the certificate.

- 5.17 However, the increase in vehicle numbers and commercial activities would generate further noise and disturbance that would be harmful to the amenities of other occupiers close to the site. Moreover, once a permission is granted there would be little control over the amount of vehicles that could visit the site for repairs, cleaning, maintenance or to drop sweepings. A condition restricting the number of vehicles being maintained at the site could be considered. However, this would not address the matter of noise and disturbance from the number of vehicles currently proposed and the noise from the additional commercial activities.

- 5.18 Whilst no information on the likely levels of noise potentially generated by the development have been provided, it is considered that the use of the site for the proposed commercial purposes would be likely to have a detrimental impact on the amenities of adjoining occupiers a Glebe Farm Cottages. It is accepted that the lawful agricultural use of the site could give rise to noise. However, these are accepted forms of disturbance one would expect living in the countryside. The potential, increased use of the access by commercial vehicles and the noise from the washer, repairs and maintenance of vehicles and general commercial activities at the scale proposed are not conducive to a rural location are not considered to be an acceptable intrusion. Moreover, commercial uses are normally located away from existing residential areas for the reason they can be very intrusive.
- 5.19 **Impact on the character and appearance of the area.**  
It is considered that a commercial use of the site would have a detrimental impact on the character and appearance of the area. Saved policy C7 of the Adopted Cherwell Local Plan 1996 states that, 'development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.' The NPPF reaffirms the need to protect the countryside by stating at paragraph 109 that, 'The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes...' such as the Area of High Value Landscape the site is set within.
- 5.10 The impact of the development on the rural character of the area needs to be taken into consideration. The existing site formed an open parcel of land with agricultural barns located within it. The bund, hardstanding and current parking of commercial vehicles are unauthorised. The bunding and vehicles are clearly visible from the main road and represent a discordant feature in the landscape. The creation of a depot at the site for the repair, maintenance, wash down, emptying and parking overnight of commercial vehicles will dramatically alter the character of the area to the detriment of the visual amenities.
- 5.6 **Supporting a prosperous rural economy and sustainability**  
The NPPF states that planning policies should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings and promote the development and diversification of agricultural and other land-based rural businesses.
- 5.05 Policy EMP4 of the Adopted Cherwell Local Plan 1996 also recognises the importance of a prosperous rural economy but also recognises the impact rural based enterprises can have on residential amenity (see paragraph 5.4 above).
- 5.15 With this in mind, it is necessary to balance the support given to rural based enterprises and the potential impact it would have on the amenities of adjoining occupiers. In this case, it is clear that the expansion of the commercial enterprise into the site and barn would have an unacceptable impact on neighbour amenity through noise and disturbance for the reasons rehearsed above.
- 5.7 **Conclusion**  
The site has a complex planning history which has spanned several years. The applicant has secured the lawful use of a building for limited commercial uses and it is clear that this use already impacts on the amenities of adjoining occupiers.

The proposal to extend the commercial activities and increase vehicle numbers would increase the harm on living conditions for neighbouring properties and would have an unacceptable impact on the amenities currently afforded through increased noise and disturbance.

It is accepted that the NPPF and local plan policies are generally supportive of rural based enterprises where it would support the rural economy. However, this has to be balanced and assessed against the impact the enterprise would have on the amenities of adjoining occupiers. In this particular case, the creation of a vehicle maintenance depot would harm the amenities of adjoining occupiers and should be resisted.

## **6. Recommendation**

**Refusal**, for the following reason

1. The proposed use would have a detrimental impact on the amenities of adjoining residential occupiers through unacceptable levels of noise and disturbance contrary to the advice within the National Planning Policy Framework March 2012, policy ENV1 and TR10 of the Adopted Cherwell Local Plan 1996 and policy NRM10 of the South East Plan 2009.
2. The proposal will result in a substantial change in the character and appearance of the open countryside which contributes to the rural setting of Fringford and will lead to an unacceptable erosion of the rural character of this part of the countryside contrary to the advice within the National Planning Policy Framework March 2012, saved policy C7, C8 and C13 of the adopted Cherwell Local Plan and policy CC6 of the South East Plan 2009.

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