

Islip Fuel Depot, Bletchingdon Road, 12/00776/F Islip

Ward: Otmoor

District Councillor: Cllr Hallchurch MBE

Case Officer: Paul Ihringer

Recommendation: Refusal

Applicant: Oxford & District Building Services

Application Description: Change of use of former oil storage depot to groundwork contractors yard

Committee Referral: Major

1. Site Description and Proposed Development

- 1.1 The Islip Fuel Depot is a 13.6 hectare site, which slopes gently from west to east, located just beyond Islip's northern limits. The depot was first used in the late 1930s by the RAF as a reserve fuel depot. After the Second World War, control transferred to ESSO who occupied the site until 1969. More recently, the MoD supplied jet fuel by pipeline to RAF Upper Heyford. The site ceased to be used as a fuel depot when the Upper Heyford base closed in 1994 and has been largely redundant in the intervening period.
- 1.2 The depot, which has two points of access on to the Bletchingdon Road, consists of a number of small dilapidated buildings, lighting towers and other structures dotted throughout the site with most being linked by a circular tarmac track. The exposed sections of the large fuel storage tanks are made less conspicuous by a covering of grass. Indeed, most of the site is grassed and until very recently a farmer has been allowed to graze sheep on the majority of the land.
- 1.3 Planning permission is being sought for a change of use so that the northern part of the depot (7 hectares) can become a ground contractor's yard. Irrespective of whether the site is considered to be abandoned (assessed below) permission will be required for the proposed development which falls within the B8 use class. A fuel depot is classified as being *sui generis* i.e. a unique land use which does not fall into any standard categorisation.
- 1.4 The applicant has earmarked part of the site on the eastern boundary, almost a hectare in size, to be used for the storage of approximately twenty items of plant/machinery (diggers/rollers/ dumpers etc). There would obviously be potential to store significantly more pieces of equipment than currently proposed. A hardstanding would be laid in order to accommodate this equipment. It is not made clear how the site will be secured. An existing building just to the west of the proposed hardstanding has been identified as a future office and canteen. It is worth noting that the proposed storage area includes part of one of the raised fuel storage tanks - despite making the applicant aware of this error a revised plan has not been submitted.

- 1.5 In addition to the above, an area of hardstanding near the northernmost access will be used for the overnight parking of HGV vehicles. The applicant also intends to use other unspecified parts of the red line area for the storage of site huts and containers. The depot would operate weekdays between 7.30am and 5pm and Saturday morning on an occasional basis.
- 1.6 As a way of mitigating the harm the development will cause to the Green Belt, the applicant is willing to remove the existing buildings and structures from the site with the exception of the building to be retained as an office and the storage tanks.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice and press notice. The final date for comment was the 20th July 2012.

1 letter has been received. The following issue was raised

Non material comments:

If permission were granted it would be good to have a photographic record of the site, given the site's links to RAF Upper Heyford.

3. Consultations

- 3.1 **Islip Parish Council:** "The Parish Council wishes to object to the application because the site is within the Green Belt. Although the site is "brownfield," it is nevertheless predominantly green, apart from one or two low-profile buildings. The main use of the site in recent years has been sheep grazing.

"The Parish Council notes that only 20% of the area marked in red is proposed as hard standing. The Council is keen to learn what use might be made of the residual 80% of the site, and hopes that CDC will discover this.

"It is appreciated that if the new use of part of the site is approved, then any application for further development will be judged on its own merits, influenced by what is already there. Therefore the Council is keen that any primary development is not antagonistic to the principles of the Green Belt as regards openness, etc, so that any secondary application can also be constrained by the principles of the Green Belt.

"Finally, the Parish Council asks that in the event of approval, traffic will be restricted to a right turn on exiting the site, where the major roads the A34 and the M40 can cope with the HGVs, etc, whereas the B4027 cannot - what with its huge traffic volumes, weight restrictions (e.g. Islip Bridge), and pinchpoints within the village."

Cherwell District Council Consultees

- 3.2 **Environmental Protection Officer:** No objections subject to condition

Oxfordshire County Council Consultees

3.3 **Highways Liaison Officer:** “We require a Transport Statement to be submitted for the following uses/ thresholds:

- B2 General industrial: 2500 - 4000 m² GFA
- B8 Storage or distribution: 3000 - 5000 m² GFA

“As the site is large (6.8ha) and its former use is considered void, the application for a contractors yard for the storage of plant, machinery, equipment and materials and overnight parking of vehicles, if granted consent, could well generate a high number of vehicular movements in the future, which may impact the local highway network, in particular Islip.

“In addition to a Transport Statement, the following information has not been provided: 1) access visibility splays, 2) car parking plan and 3) surface water drainage scheme, 4) details of pedestrian accessibility improvements. In the absence of this required information, the Local Highway Authority recommends that the application should be refused on highway safety grounds.”

3.4 **Drainage Officer:** “It is anticipated that a large area of the site could well become an impermeable surface due to the operation being proposed. Therefore the developer should be made aware of the requirements of the Flood and Water Management Act 2010. Surface water from the development needs to be dealt with within the boundary of the development. Surface water from any impermeable hardened surfaces will need to be directed into a positive drainage system which in turn goes to soakaway or other Suds feature. There could be an opportunity for rain water harvesting for a vehicle washdown facility.”

Other Consultees

3.5 **Environment Agency:** “In the absence of a flood risk assessment (FRA), we object to this application and recommend refusal of planning permission until a satisfactory FRA has been submitted.”

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

GB1: Development in the Green Belt

C7: Landscape conservation

C28: Layout, design and external appearance of new development

EMP4: Employment generating development in the rural areas

ENV12: Contaminated land

South East Plan 2009
CO4: Green Belt
SP5: Green Belts
C4: Landscape and countryside management
T4: Parking
NRM4: Sustainable flood risk management
RE3: Employment and land provision

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission (August 2012)

The Local Plan (August 2012) is currently out for public consultation. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

SLE 1: Employment development
ESD 14: Oxford Green Belt

5. Appraisal

5.1 The key issues for consideration in this application are:

- Status of the land
- Impact on the Green Belt
- Highways Safety
- Flooding

Status of the land

5.2 The first thing that needs to be established is the status of the site given that it has been redundant for almost 20 years. For the purposes of planning, has the land been abandoned?

5.3 Where an operation has been granted planning permission, it cannot be held that the use has been abandoned except in very special circumstances. The concept of abandonment is therefore only normally applied to development which pre-dates 1948, as is true in this case.

5.4 As regards the legal interpretation of abandonment, Lord Denning, in a case heard in the late 1960s, proffered the following:

"I think that when a man ceases to use a site for a particular purpose and lets it remain unused for a considerable time, then the proper inference may be that he has abandoned the former use. Once abandoned, he cannot start to use the site again, unless he gets planning permission: and this is so even though the new use is the same as the previous one."

5.5 More recently, it is generally accepted that there are four factors that need to be taken into consideration when assessing cases relating to possible abandonment. These are as follows:

- 1) the physical condition of the building;
- 2) the length of time for which the building had not been used;
- 3) whether it had been used for any other purposes; and
- 4) the owner's intentions

5.6 The buildings which have been largely unused for the last eighteen years are in a poor state of repair and most could not be made functional without significant remedial repairs. As it is surplus to MoD requirements and no private contractor has evidently come forward, it is improbable that there will be future interest in using the site for fuel storage purposes.

5.7 On the basis of the above, it is concluded that the use of the site has been abandoned.

Impact on the Green Belt

5.8 Development in the Green Belt, outside the limitations imposed on the construction of new buildings, is restricted to the following activities set out in Paragraph 90 of the National Planning Policy Framework (NPPF):

- *mineral extraction;*
- *engineering operations;*
- *local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- *the re-use of buildings provided that the buildings are of permanent and substantial construction; and*
- *development brought forward under a Community Right to Build Order.*

5.9 Even where a development is considered to comply with one of these operations, permission can still be resisted if they fail to *preserve the openness of the Green Belt*. The proposed development, other than the re-use of one of the buildings, does not comply with any of the above activities and is therefore considered to be contrary to Green Belt policy. Furthermore, the storage of plant and equipment across the site would cause, in the opinion of your officers, significant harm to the openness of the Green Belt and the appearance of the surrounding countryside.

5.10 As with previous Government guidance there is a provision in the NPPF (Paragraphs 87 and 88) to take into consideration *very special circumstances* (VSC), whereby the policy objection can be overcome if the applicant can demonstrate significant material considerations which *clearly* outweigh the harm caused to the Green Belt.

5.11 The applicant has not acknowledged that the development would be contrary to Green Belt policy and has not therefore presented a formal VSC case. They do however make a couple of points which would perhaps constitute the basis of such an argument:

- The fuel depot could re-open without the need for planning permission and would have more of an impact on the Green Belt than the proposed operation.
- Although new buildings are normally considered to be inappropriate development, Paragraph 89 of the NPPF identifies a number of exceptions, one of which reads as follows:

limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The applicant argues that the proposed development complies with this exception and the development is therefore appropriate in principle. In order to meet the requirement relating to maintaining the openness of the Green Belt, the applicant is willing to remove all the buildings and structures (with the exception of the storage tanks and the proposed office) as a way of ensuring that any harm the new development causes to the Green Belt is appropriately mitigated against.

- 5.12 In respect of the first of these points, it has been established that planning permission would be required for the site to re-open as a fuel depot. Following its abandonment the site is deemed to have a *nil use* with all existing planning rights lost. Even if it had been possible to re-open the fuel depot, as already stated there has evidently been no interest in using the site for this purpose in the last 18 years and it is improbable that a business would come forward to try and re-establish the use in the future.
- 5.13 Turning to the second point, Paragraph 89 refers specifically to new buildings, and therefore should not be applied to this case. Furthermore, although the removal of the existing buildings would constitute an improvement to the Green Belt, it would not offset the greater harm which would result from the proposed new development.
- 5.14 Whilst local policy (EMP4 of the adopted Cherwell Local Plan and SLE1 of the emerging Local Plan) and national guidance (NPPF - *DSD1 Building a strong competitive economy and DSD3 Supporting a prosperous rural economy*) promotes economic development, it would not constitute a VSC as there will be other sites outside the Green Belt which could accommodate the applicant's business.
- 5.15 Based on the assessment above, it is concluded that the development constitutes inappropriate development in the Green Belt and would cause significant harm to the surrounding countryside. It therefore runs contrary to Policies CO4, SP5 and C4 of the South East Plan 2009 and saved Policies GB1 and C7 of the adopted Cherwell Local Plan.

Highway Safety

- 5.16 Islip Parish Council are unsurprisingly concerned that any heavy goods traffic associated with the development should not pass through the village given the

narrowness of the through road and the weight restrictions in force on Islip Bridge.

- 5.17 In order to assess the impact a proposal of this size would have on the local highway network and to address the reservations expressed by the parish council, the applicant is required to submit a transport statement. Despite making the applicant aware of this shortcoming and allowing them the time to commission a statement, they ultimately indicated their unwillingness to provide one. As a result, the development should, in the opinion of the Highways Officer, be resisted on highway safety grounds as it runs contrary to Government guidance contained within the NPPF.

Flood Risk

- 5.18 The Environment Agency flagged the need for a flood risk assessment early in the process. As with the transport statement, the applicant chose not to cede to a request to provide an assessment. In its absence, the Environment Agency is recommending that the application be refused on the grounds that it does not comply with Government guidance contained within the NPPF (Footnote 20 of Paragraph 103).

Conclusion

- 5.19 Officers have concluded that the proposed development represents inappropriate development in the Green Belt that would cause harm to the surrounding countryside. The applicant has also failed to provide an FRA or a Transport Statement. The proposal therefore runs contrary to Policies CO4, SP5 and C4 of the SEP and saved Policies GB1 and C7 of the CLP and Government guidance contained in the NPPF. Members are therefore recommended to refuse the application on these grounds.

6. Recommendation

Refusal on the following grounds:

- 1 The principle of the proposed development does not comply with Green Belt policy and guidance. In the absence of a persuasive very special circumstances case, the development is considered to be inappropriate development in the Green Belt which will adversely affect its openness. Furthermore the development would cause significant harm to the surrounding countryside. The proposal is therefore contrary to Policies CO4, SP5 and C4 of the South East Plan 2009, saved Policies GB1 and C7 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
- 2 In the absence of a transport statement, a statutory requirement for a development of this size, the development is likely to constitute a potential highway safety risk and therefore does not accord with Government guidance contained within the National Planning Policy Framework.
- 3 In the absence of a flood risk assessment, a statutory requirement for a development of this size, the development is likely to constitute a potential flood risk and therefore does not accord with Government guidance contained within the National Planning Policy Framework.