

**TOWN & COUNTRY PLANNING ACT
(1990) APPEAL BY E SMITH ESQ**

RELATING TO

**FURZE FARM, DUNT AVENUE, HURST,
WOKINGHAM RG10 0SY**

MLP REF: DL/25/188

MARCH 2024

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1.0 INTRODUCTION

- 1.1. This appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended). It is in respect of the refusal of an application for the change of use to the storage and sale of motor vehicles. The site comprises a single building and adjoining land at Furze Farm, Dunt Lane, Wokingham RG10 0SY.
- 1.2. The application was submitted on 15th January 2025 and was determined on 19th March 2025. During the course of determination the applicant responded to consultation responses and details of these are attached to the appeal questionnaire along with notification responses.
- 1.3. This Statement sets out a description of the site and surrounds, the relevant planning history and policies; and the case as to why permission should be granted. It concludes as follows:
 - There is agreement between the main parties that the hardstanding is lawful save for a small corner of additional development to which the appeal relates. It is also agreed that the building used in connection with the appeal is lawful and that there is no adverse impact on residential amenity as a result of the commercial operations.
 - There is a recent planning permission for a sports therapy use in an adjoining building. Reference is made to this decision in so far as it pertains to the concept and planning policies relating to “rural enterprise”.
 - It is noted that there is no adverse impact on ecology and the local authority does not cite a requirement for BNG. This is not implicated in this development.

- It is further agreed that there is no material definition in planning policy or otherwise of that which constitutes a “rural enterprise”. It follows that this is a matter of judgement and one which falls to be considered on its merits by the decision-maker.
- Planning history shows that in 1994 permission was granted for the change of use of two buildings. This included an area of hardstanding. The use of the respective buildings with a limitation on external storage, has been ongoing for a number of years as part and parcel of the rural enterprise.
- One of the buildings (as extended) and the enlarged hardstanding is being used for the storage and sale of motor vehicles. This is the subject of the appeal.
- It is material that the limiting condition on the 1994 permission in so far as it relates to a restriction on external storage, was imposed “in the interests of amenity”. This is a consideration of the ongoing land use and it is shown that it has limited impact on the landscape character.
- The Statement details the principal issues for determination and relate to the concept of a “rural enterprise” which is not defined in planning policy at either national or local levels. It is one to be determined on its merits along with the effect on the landscape and matter of transportation/sustainability.
- On the issue of rural enterprise, the operational requirements and nature of motor sales are detailed. It is shown that they can and do take place in both settlements and rural areas. This operation may properly be considered as low key and its nature is not one which is alien to a rural area. Contemporary car sales (as with other retailing) is based on internet transactions and the forecourt sales concept is not implicated in this case.
- The coming and goings for car purchase are infrequent by reason of their nature and involve journeys which usually involve extensive distances, be they within or outside of settlements.
- The fall-back position is one which is both lawful and probable and must properly form part of the consideration of this application.

- The local authority has referred in the officer report and refusal to “maintenance” and no such activity takes place at the appeal site. Reference to this should be disregarded.

1.2 On the basis of the foregoing the appeal use is appropriate and provides for an enterprise which can and does take place in rural areas whilst meeting the objectives of national policy. The appeal should be allowed.

2.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDS

2.1 The appeal site comprises a complex of former agricultural buildings some of which have been converted and developed for commercial use pursuant to permissions granted in 1992 and 1994. The buildings have been variously used as such by a number of occupiers since this time.

2.2. The access and parking areas have been provided in accordance with the planning permissions. In 2012 and 2013 the hardstanding was extended in the manner shown on drawing MLP/02 so as to satisfy the needs of commercial tenants. The lpa acknowledges this position and accepts the lawful position on the basis of the time limits expressed in the legislation. This leaves a small area of hardstanding which is outside of the appeal site and site edged red.

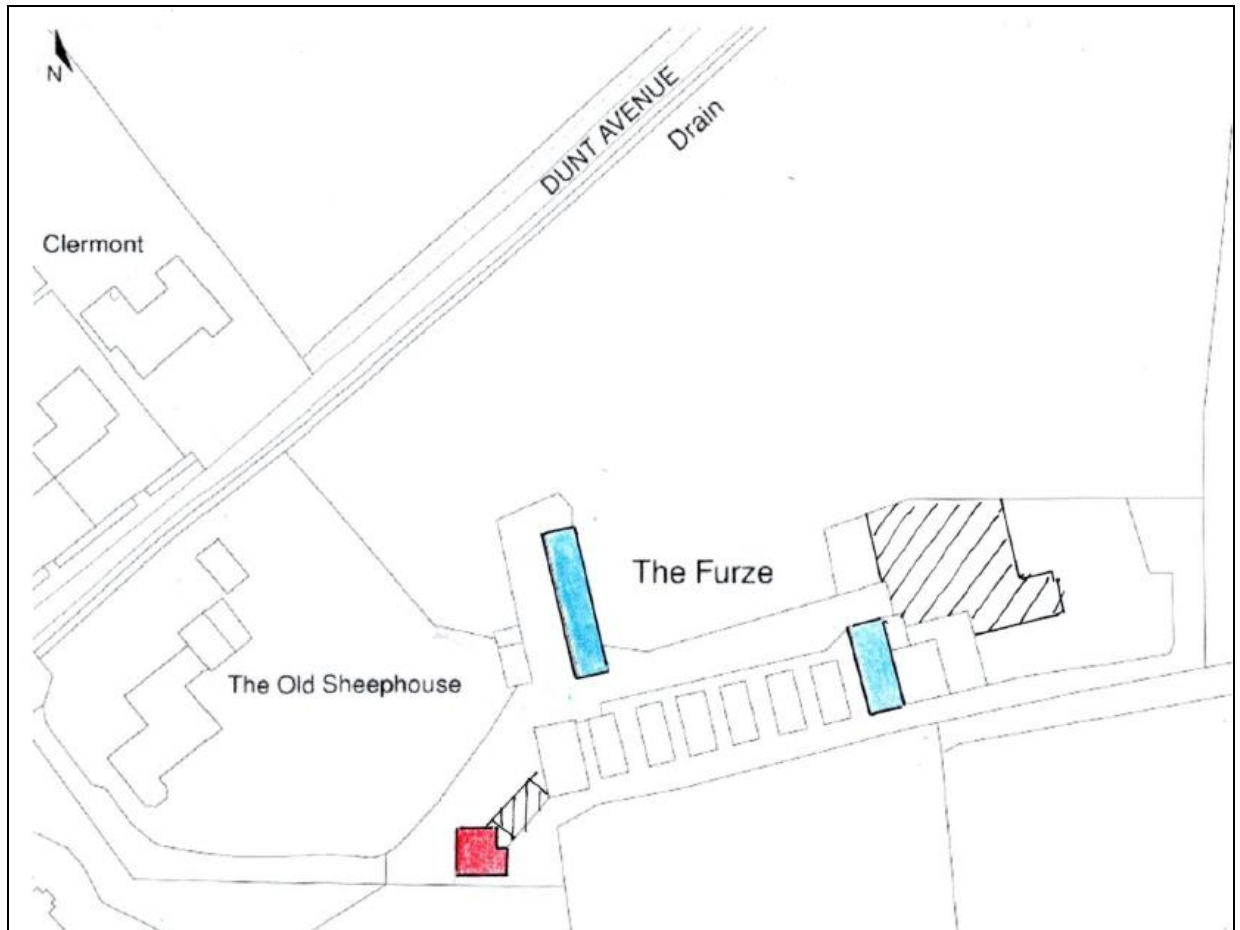
2.3 The extent of the hardstanding as per the 1992 and 1994 permission is shown on drawing MLP/02 as is the extension to this area. Reference is made to this below in so far as it represents the fall-back position.

2.4. We draw attention to the verdant enclosure which was undertaken by the appellant at the behest of the local authority in the early 1990's and has matured since this time.

2.5. In its wider context the appeal site is located approximately 1.5 miles from Winnersh railways station and 3.3 mile from Tywford railway station. We refer to these matters in the discussion of the main issues below.

3.0 **RELEVANT PLANNING HISTORY**

- 3.1. Planning permission was granted in 1994 for the change of use of the former poultry buildings to light industrial use. These are shaded in blue on the plan below. Submitted drawing MLP/02 shows the extent of parking which was provided in accordance with the permission. This is also hatched on the plan below.



- 3.2 In 1992 permission was granted for the change of use of an agricultural building to a Class B1 use as a design studio and offices. This is shown in red on the plan above along with the adjacent parking.
- 3.3 In 2025 permission was granted for the use of this building as a sports therapy and massage use within Class E and the decision is attached as appendix 1. We return to this matter below in the discussion of the main issues.

4.0. RELEVANT PLANNING POLICIES

- 4.1. The relevant development plan policies are set out in the adopted Local Plan, which comprises the Core Strategy (adopted in January 2010) and the Managing Development Delivery DPD (adopted in February 2014). They are:

Core Strategy

CP1 - Sustainable development
 CP3 General principles for development
 CP6 Managing travel demand
 CP9 The scale and location of development proposals
 CP11 Proposals outside of development limits
 CP15 Employment development

Managing development delivery

CC01 The presumption in favour of sustainable development
 CC02 Development limits
 CC03 Green infrastructure, trees and landscape
 CC06 Noise
 CC07 Parking
 TB21 Landscape character

- 4.2. The development plan has been superseded by the many versions of the NPPF and the most recent Framework24 (December 2024). The appointed Inspector will be familiar with:
- The presumption in favour of sustainable development (7-11)
 - Supporting a prosperous rural economy (88)
 - Rural locations and public transport (89)
 - The hierarchy of landscape designations (188)
- 4.3. The following section applies these policies and other material considerations to the determination of the development proposal.

5.0 THE MAIN ISSUES

- 5.1. The appellant's case for the development is set out in relation to the following matters.

1. Is the location and use acceptable as a rural enterprise?
2. Is the impact on the landscape and countryside acceptable?
3. Are there any other material planning considerations?

The principle of development - the rural enterprise

- 5.2. The starting point for considering the appeal is whether the location is acceptable for this commercial land use and stemming from this the matter of sustainability. In consideration of this we refer to the following:

- What is a rural enterprise?
- The contemporary nature of car sales
- The rural location of car sales outlets
- The nature of destination purchase and access to public transport (NPPF 89)

- 5.3. National or development plan policy whilst positively encouraging the principle of “rural enterprise” as part of a prosperous rural economy, does not define that which constitutes the same. This is a matter for the decision maker and in granting permission in March 2025 for the adjacent building (shaded red in the image above on page 5 and at appendix 1) the Officer commented:

For the proposed change of use to be considered compliant with exception 1 of policy CP11, the current use of the building would have to be associated with, and necessary to, a rural enterprise. There is no definition of that which constitutes a rural enterprise, however, it is clear that the business represents a commercial enterprise, with no intrinsic link to the countryside. It is therefore not considered to contribute to a diverse and sustainable rural enterprise within the borough, or contribute and/or promote recreation in, and enjoyment of, the countryside.

- 5.4. This is a perfectly proper approach to the determination and reflects a position where the ongoing use was considered to be contrary to development plan policy CP11 and for the reasons set out below an exception/departure to the relevant policy was determined to be acceptable.

Notwithstanding the above, the variation of condition 3 would not lead to any encroachment or expansion of development away from existing development, as it would operate within an existing building which is appropriate for conversion. Consequently, the proposal would comply with exceptions 2 & 3 of the Core Strategy.

The wording of Policy CP11 requires compliance with all three of the requirements listed above for development to be supported in principle. As the development fails to comply with the first requirement of CP11, the development is unacceptable in principle. Notwithstanding, this must be weighed against the benefits of the scheme and adjudged against the level of harm, if applicable. A summary of this matter is provided in the conclusion of this report.

- 5.5. This tension in the application of Policy CP11 is one which is frequently seen in this and other lpa's where the concept of sustainability is wrestled with the promotion of rural enterprise. In the case of the therapy use, patrons and practitioners visit the site by car and undertake treatment on a regular basis. For this to be transport sustainable the use would be better suited to a settlement location where other activities could take place (work, shopping, leisure and the like) in the same visit. Plainly this is not the case and the location, although not well served by public transport, there is no appraisal of this matter in the Officer's report.

- 5.6. In the case of the subject appeal, the car sales use is one which the lpa considered is not suited to a rural location and the basis for this approach is:
1. That it is in an unsustainable location.
 2. There is a perception of a harmful urbanising effect.
- 5.7. In examining this matter, it is extremely important to appreciate the nature of the operation and it is something which Officers of the Council, with respect, have not been able to understand.
- 5.8. The use is wholly operational by internet based sales and there is no forecourt. Thus a customer who wishes to source a particular vehicle will undertake an internet search both generally and specifically to this operator. This will take place via the press such as Auto Trader where particulars of make, model, milage and price can be entered. Customers who find a suitable vehicle will reserve the car pending a test drive and viewing.
- 5.9. In light of this process and whilst there remain forecourts in both urban and rural areas, the factor of vehicle purchase is not determined by a visit to a showroom in a settlement. This said, those wishing to buy, for example, a Citroen might decide to visit Wilmoths some 3 miles from the appeal site to examine cars which are available. This is a rural location outside of any settlement and is one of many such car sales dealers.
- 5.10. In the case of the appeal occupier (Drews Motor Company), there is no dealership franchise and the infrequent nature of the specialist purchase is such that this can take place within or outside of a settlement. We say this because those who have undertaken an internet search will have identified a suitable car. Research shows that such purchasers will travel an average of 50 miles to inspect and purchase the car.
- 5.11. Indeed this is the experience of Drews Motor Company who have recent customers who have travelled from Southend on Sea, Oxford, Ferndown, Andover, Chiddingfold, Warfield, Milton Keynes, Crawley. They may then make the purchase on their initial visit having undertaken internet research and travelled to the site. Additionally, Drews will be prepared to part-exchange around 1 in 5 vehicles determinative on condition and sales performance at any particular point in time.

- 5.12. The fact is that the destination purchase of vehicles is one which is not localised and given the distances involved, a rural location is no less sustainable than an urban location. If a customers travels more than 50 miles for a one off and infrequent purchase they are not reliant on a location within a town or identified settlement in the Local Plan.
- 5.13. Paragraph 89 of Framework24 is to the effect that decision-makers must recognise that sites meeting local business needs may not be well served by public transport. In such circumstances the development should be sensitive to its surrounds and does not have an unacceptable impact on local roads. Opportunities of access by other means should be encouraged.
- 5.14. On a practical level Drews experience is that customers may make use of train stations and as is detailed above they are at Twyford with directly links to London Paddington and Reading; and at Winnersh with links to Reading and the west country. When the vehicle is purchased and there is no opportunity/request for part exchange, customers will not drive to the appeal site and will instead be offered a collection from the station or use a taxi service. As is detailed at 2.5 above the journey distances and time are limited to these stations.
- 5.15. This very same process would take place to an urban location for the infrequent and specialist purchase of a car. Thus the effect on sustainable transport is identical whether the activity takes place in an urban area or, as is the case here, close to settlements. The effect is identical unless the car sales take place immediately next to a railway station or a frequent service bus stop.
- 5.16. In sum, the location of car dealerships is one which does take place in the countryside and there are numerous examples of this occurrence. The contemporary nature of car sales unless it is for a specific make and franchise is internet led and courtyard viewing is not the principal means of purchase. Buying a car is infrequent and specialist and does not rely on proximity to public transport. Thus whilst the appeal site is actually proximate to railway stations (1.5 and 3.3 miles) and the operator offers lifts, the rural location is no less sustainable than an urban site.

- 5.17. The lpa granted permission in March 2025 for an adjacent use in the stated knowledge that it did not meet the terms of a rural enterprise and related development plan policy CP11. The case for departure acknowledges this position and the tension between policies promoting rural enterprise as set against sustainability in regards to location. These same criteria and approach can be properly applied to the appeal decision and it is reasonable for the appellant to expect consistency in approach.

The effect on character and design

- 5.18. If the position in regards to CP11 is accepted and plainly the appellant encourages this, then the additional CP11 and TB21 policies must be afforded weight in so far as they relate to the perception of urbanisation and effect on the landscape character. The issues are:
- Excessive encroachment or expansion away from the original buildings (CP11-(2))
 - Containment in suitable buildings (CP11-(3))
- 5.19. TB21 requires that development should not materially harm the landscape character.
- 5.20. In regards to the land use which is the subject of this appeal, there is an acknowledgement in the Officer report acknowledges that the land use is not subject to wider views. It is stated that, of itself, this is insufficient grounds to allow the use and related parking. It is further stated that the 1994 permission specifically restricted outdoor storage in light of the rural location.
- 5.21. The approach of the lpa is recognised, although the fact is that the car preparation and office uses are confined to existing buildings and this is compliant, as a matter of principle, with CP11(3). The use of the land for the storage of vehicles takes place for the most part on land which is allocated for parking as per the 1994 permission. Thus the parking of vehicles on this land, which is unfettered by height or type, would take place on the areas shown on drawing MLP/02.
- 5.22. This area is contained by landscape which as a matter of fact was sought and provided by the appellant in the mid 1990's. Since then this has been managed and has matured in the manner which the appointed Inspector can observe. It is also shown in the Planning Statement by the photograph at page 9.

5.23. The appellant's case is not that the degree of containment is sufficient to allow development and this is not an approach endorsed by the Framework. Rather it is a matter to be weighed in the planning balance and it is a strained argument to say that the degree of dispersion reflects encroachment - which it does not - or that it is "away from the original buildings" to an extent that it is harmful. These are the policy tests.

5.24. On this basis and having regards to the particular circumstances of this case, there is no prima face conflict with CP11(2) and (3) or with TB21. In short and when set against the lawful position per the 1994 permission, there is no material harm or "urbanising effect". Indeed the effect in visual terms is entirely similar to that which would apply to the lawful position of the 1994 permission and the lpa has no regard to this.

5.25. It is worth adding that the lpa take issue, in a separate context, with the parking of a motor home of which the upper parts can be seen above the hedge. If this is taken as a baseline then the parking of LGV's on the lawful hardstanding would plainly have more visual effect than the ongoing car parking related to the appeal.

Other material considerations and planning conditions

5.26. The lpa takes no issue with flood risk, surface water flooding, BNG/ biodiversity or residential amenity. No case is cited in respect of the effect of traffic generation or road safety. There are no other development management considerations which would militate against the grant of planning permission.

5.27. The lpa refers in the reasons for refusal to "car sales and maintenance". For the avoidance of doubt there is no maintenance of vehicles and reference to this is erroneous. It should not form part of the consideration of this appeal.

6.0. PLANNING CONDITIONS

6.1. In terms of planning conditions we have regard to the consultee responses as set out in the Officer report. These are set against the tests in the Framework and Practice Guidance and suggest the following may, subject to the Inspectors consideration, be attached to a determination:

- Plan numbers
- The retention of landscaping and boundary treatments

- 6.2. There is a finite limit on the area available for car sales and the numbers vary depending on sales success and the replenishment of stock. The current operator has a requirement for no more than 20 vehicles and a limiting condition to this effect satisfies the tests of reasonableness and enforceability. Subject to the determination, we suggest the following or a similarly worded condition.

The site shall contain no more than 20 vehicles at any one time for the purposes of internet based car sales.

7.0 THE PLANNING BALANCE

- 7.1. Having regard to the foregoing, the following points are made by way of conclusion:

- The current position is a building and land for which there is agreement pertaining to lawfulness save for a small area which is outside of the appeal site - see MLP/01 and 02.
- In granting permission in March 2025 for the use of a building and car parking area as a sports therapy use, the lpa stated that it was not a rural enterprise and did not meet the three criteria set out in development plan policy CP11. This and the acknowledgement that the location is unsustainable (reliant on the private car) is indicative of the tension between promoting rural enterprise and the rural economy. This same approach may reasonably be considered against the current appeal use where visits are less frequent than the sports therapy use. The appellant may reasonably expect consistency in approach.
- It is plain that there is no material definition in planning policy or otherwise of that which constitutes a “rural enterprise”. It follows that this is a matter of judgement and one which falls to be considered on its merits by the decision-maker.
- In 1994 against rural area policies, permission was granted for the change of use of two buildings and this included an area of hardstanding, the majority of which falls within the appeal site. This plainly would have a visual effect dependent on the size and height of parked vehicles which is wholly unfettered.

- The appeal development makes use of the hardstanding and an existing building. It does not represent a significant expansion away from the buildings and/or the related hardstanding. To this extent it is wholly planning policy compliant with CP11 2 and 3.
- On the important issue of rural enterprise, the operational requirements and nature of motor sales are detailed. It is shown that they can take place in both settlements and rural areas and are internet based.
- The coming and goings for car purchase are infrequent by reason of their nature and involve journeys which may involve extensive distances, be they within or outside of settlements. To this extent the issue of transport sustainability is one which may be applied equally to rural and urban settlement locations. Furthermore, there are numerous examples of motor sales activities in rural locations. To this end the appeal use is not unsustainable and lies in close proximity to railway stations which are used to enable single trip car purchases from the appeal site.
- For the avoidance of doubt, there are no motor repairs or maintenance on the appeal site.

7.2 On the basis of the foregoing the appeal use is appropriate and provides for a rural based enterprise which can and does meet the objectives of national policy. The appeal should be allowed.

