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Planning Statement

For Ms Andrea Bailey | 22-539

Retrospective planning application for self-service vending machine selling milk and milkshakes - Wickenstone Farm, New Street, Biddulph, ST8 7NW

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Project:	22-539
Site Address:	Wickenstone Farm, New Street, Biddulph, ST8 7NW
Client:	Ms Andrea Bailey
Date:	05 January 2023
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Contents

1. Introduction _____ 1

2. The application _____ 2

3. Context _____ 3

4. Policy context _____ 4

5. Planning considerations _____ 8

1. Introduction

1.1 This statement is submitted in support of a retrospective planning application for the construction of a small self-service unit selling milk and milkshakes to the public by way of a vending machine at Wickenstone Farm, 98 New Street, Biddulph ST8 7NW.

1.2 It will be demonstrated that the principle of the development is acceptable. The proposed development would comply with policies set out in the development plans and the Framework and therefore in accordance with paragraph 11 of The Framework, planning permission should be approved. There are no material considerations to indicate otherwise.

2. The application

2.1 Wickenstone Farm is a 140 acre dairy farm with a herd of over 120 cows. To help increase the revenue of the farm, the farm has invested in small unit to enable milk to be sold direct to the public.

2.2 The unit is small shipping container which is located on an area of flat land close to the entrance to the farm. The container is dark green in colour. A timber lobby, constructed in vertically boarded timber, has been positioned on either side of the entrance to provide weather protection for customers. This vertically boarded timber has also been used to clad part of the shipping container.

2.3 The unit, which was installed in April 2022, is located some 90m from the farm yard complex and is referred to as 'Shakes on the Rocks' due to its position next to Wickenstone Rocks. The unit sells pasteurised milk from a vending machine within the unit. A second vending machine sells glass bottles with a choice of two sizes. The milk vending machine also provides the opportunity to add flavoured syrups to the milk to create milk shakes. A small self-service coffee and tea vending machine is also available and the second vending machine sells a small amount of homemade cakes from a local supplier.

2.4 The unit is self-service, allowing customers to purchase milk throughout the day. The current opening times are 07:00 to 23:00 seven days a week. The applicant checks on the unit 5 or 6 times throughout the day to ensure that the machines are fully stocked and operating correctly and to clean/tidy the unit when necessary. The site is also monitored by security cameras and voice activation system allowing the applicant to monitor operations 24/7.

2.5 On 7 October 2022, the applicant was alerted by Staffordshire Moorlands District Council that a complaint about a shop on the site had been received. Emery Planning have been instructed to submit a retrospective planning application for the installation of the small unit selling milk produced on the farm.

3. Context

Site location and description

3.1 The application site is located on an area of level ground adjacent to Wickenstone Rocks off New Street, Biddulph Moor. The main farm is located at a lower level to the west of the application site with private access from New Street which runs past the application site.

3.2 Wickenstone Farm consists of approximately 150 acres and operates as a dairy farm with over 120 dairy cattle. Within the farm complex there is also a family operated haulage and fertilizer business, all of which have operated on the site for many years

3.3 Previously, the application site was used as storage and parking area for waggons and van bodies used in connection with the haulage business.

3.4 The application site is located within the Green Belt and Open Countryside as identified in the Local Plan. The site also adjoins Wickenstone Rocks, which in 2006 was designated a Regional Important Geological Site (RIGS).

3.5 A telephone mast and compound also lies within the Wickenstone RIGS, which is located adjacent to the application site. Wickenstone Rocks and the telephone mast and compound are surrounded by fencing blocking unauthorised personal from gaining access. The gate to the compound is accessed from the carpark and requires 24hr access.

3.6 The application site's boundary is marked by fencing that stretches either side of the unit on the western border and continues along the border of the site.

3.7 The site is accessible from New Street and is located approximately 80m from the entrance to the farm.

Relevant planning history

3.8 Following a review of Staffordshire Moorlands District Council online database there are no planning applications identified as being relevant to this application.

4. Policy context

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the relevant development plan:

> "If regard is to be had to the development plan for the purposes of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise".

Development plan context

4.2 The development plan comprises the adopted Local Plan (September 2020).

Staffordshire Moorlands Local Plan (Adopted 2020)

4.3 Policies relevant to the application are as follows:

- Policy SS10 – Other Rural Areas Strategy
- Policy DC1 – Design Considerations
- Policy DC3 – Landscape and Settlement Setting
- Policy NE1 – Biodiversity and Geological Resources
- Policy NE2 – Trees, Woodland and Hedgerows

National Planning Policy Framework (The Framework)

4.4 Paragraph 11(c) and (d) of the Framework establish a presumption in favour of sustainable development, to be applied in plan making and decision taking:

> "For decision-taking this means:
>
> c) approving development proposals that accord with an up-to-date development plan without delay; or
>
> d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date[8], granting permission unless:
>
> the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed[7]; or

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

4.5 Relevant chapters from the Framework to this development are below

- Chapter 6 – Building a Strong, Competitive Economy
- Chapter 13 – Protecting Green Belt Land
- Chapter 16 – Conserving and Enhancing the Natural Environment

4.6 In particular at paragraph 84 under section 6 states that;

Planning policies and decisions should enable:

A) The sustainable growth and expansion of all types of business in rural area, both through the conversion of existing buildings and well designed new buildings;

B) The development and diversification of agricultural and other land-based rural businesses.

4.7 Paragraph 85 goes onto state that :

Planning policies and decisions should recognize that sites to meet local businesses and community needs in rural area may have to be found adjacent to or beyond existing settlements and in locations not well served by public transport."

Determining applications

4.8 Paragraph 47 states that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

4.9 Paragraph 81 states that 'Significant weight should be placed on the need to support the local economic growth and productivity, taking into account both local business needs and wider opportunities for development'

National Planning Practice Guidance

4.10 The National Planning Practice Guidance (NPPG) was published in March 2014 and has been updated since. It provides guidance on the interpretation of Government policy contained within the Framework

Other material considerations

Biddulph Neighbourhood Plan

4.11 Biddulph's Neighbourhood Plan final examiner's report was published in February 2022. There has been no further detail given as to when the Neighbourhood Plan will be adopted.

4.12 The policies published in the draft report should still be considered and given significant weight in this application.

4.13 Relevant policies to the application from the draft Neighbourhood Plan are as follows:

- Policy HCT1 – Enterprise and Tourism development
- Policy DES1 – Design

Supplementary planning documents

4.14 The Staffordshire Moorlands Design Guide 2018 is a material consideration in the determination of the application. In particular paragraphs 4.22 refers to soft landscaping and wildlife.

5. Legislative context

5.1 Section 73A of the TCPA allows for retrospective planning permission to regularise development that has been carried out without planning permission, as per our emphasis in the extract below:

> 73A Planning permission for development already carried out.
>
> (1) On an application made to a local planning authority, the planning permission which may be granted includes planning permission for development carried out before the date of the application.
>
> (2) Subsection (1) applies to development carried out—
>
> (a)**without planning permission**;
>
> (b)in accordance with planning permission granted for a limited period; or
>
> (c)without complying with some condition subject to which planning permission was granted.
>
> (3) Planning permission for such development may be granted so as to have effect from—
>
> (a)the date on which the development was carried out; or
>
> (b)if it was carried out in accordance with planning permission granted for a limited period, the end of that period.

5.2 In this case the application made under s73A seeks planning permission for work carried out (installation of a small retail unit) without the necessary planning permission in place. It is suggested that permission should be granted subject to a condition listing the plans relating to the development as constructed.

6. Planning considerations

6.1 This section of the report assesses the proposed development within the context of the planning policies set out in the previous section.

Green Belt: appropriateness of development

6.2 Paragraph 149 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt unless the proposal meets one of a number of exceptions. One such exception is buildings for agriculture and forestry.

6.3 This current planning application seeks retrospective planning permission for the installation of a small shipping container that has been modified to allow for a milk dispensing machine and sundries to be provided to allow for direct milk sales from the farm to members of the public. The proposals are part of the wider farm operation. As such it is considered that the application proposals are not inappropriate in the Green Belt.

Impact on the openness of the Green Belt

6.4 There is no definition set out through policy or law as to what openness should comprise, and there is no standard methodology as to assessing impact.

6.5 The PPG at paragraph 64-001 advises that:

> "Openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume."

6.6 An assessment of the spatial and visual impacts if provided below.

Spatial impact

6.7 In terms of spatial impact, the container has a floor area of 32sqm (including covered entrance and store room) and a volume of 77.5m3. The site was previously used for the parking of trucks and trailers in connection with the family haulage business. In this context, the land would be no more built up than it was when used for haulage and storage of trailers and trailer bodies.

Visual Impact

6.8 In terms of visual impact, it is necessary to look at the specifics of the site, the unit and the wider area to assess how the units assimilates into its setting and specifically why this site was chosen. This is addressed further in Section 7 - Very Special Circumstances below.

6.9 The unit has been located close to the farm entrance off New Street, on an area of ground on the farm holding which is easily accessible to members of the public and not near the working area of the farm or yard. This area has historically been used as a parking area for the trucks and trailers used in connection with the family haulage business. This area has been repurposed for the specific use of providing direct milk sales to the public.

6.10 The unit comprises a shipping container to the west of the site where an electricity and water supply connection had already existed, it was also necessary to locate the unit some meters away from the mast compound to avoid any interference with the compound and gates for the telephone mast which requires 24 hour access. It was also necessary to avoid the existing access into the grazing land at the rear of the unit as this is the only levelled access to the land.

6.11 As referred to earlier the unit is a small shipping container that has been modified for this specific purpose. The eastern elevation container consists of double doors which are left open during the hours of operation. Part of the unit has been clad in vertically boarded timber and a timber canopy/shelter has been installed at the entrance to provide additional protection from the weather. A small timber storage building at the rear has also been provided. The timber cladding and fence will be stained/painted a dark recessive colour and any writing /decal on the remaining elevations of the containers will be painted over to the same base colour of the unit to improve the appearance.

6.12 The applicants have improved the appearance of the site and introduced a fence to separate the area from the surrounding agricultural and grazing land. The hard standing has been resurfaced with gravel and a new timber fence has been installed to separate the adjoining fields from the parking area. The fence does not require planning permission as this is below 1 metre in height. The applicant proposes to introduce a new hedge, of local native species, to the rear of the unit along the fence line. Likewise, some of the elevations of the unit have been clad in vertically boarded timber. A wooden canopy has been constructed around the entrance to the container to serve as a 'lobby' to protect customers from the weather throughout the year

6.13 The position of the unit, and fencing is considered to have no greater impact on the immediate landscape setting than the existing telephone mast, large kiosk and fencing which lies adjacent to the site. By comparison this unit is small and can be readily assimilated into the landscape through the additional mitigation measures of additional planting and painting of the unit.

6.14 The Staffordshire Moorlands Design Guide states in paragraph 4.22 regarding 'Soft Landscaping and Wildlife':

> "4.22 New tree and shrub planting can provide screening for privacy, enclosure or shelter or just to 'fix' the building into the landscape in a traditional way. Whenever possible, preference should be given to using locally indigenous species and varieties of plants"

6.15 The applicant proposes local native planting to the rear of the unit with the potential for additional tree planting in the paddock to the rear. There are already trees and shrubs present in this area. New shrub species are proposed as the most suitable option to be utilized and will be chosen in accordance with what is already present on site. These would allow the unit to assimilate into its surroundings, as the Design Guide says soft landscaping can be used to 'fix' buildings into the landscape.

6.16 The unit is not a standard agricultural building, however it offers a practical and secure alternative. The proposal to undertake additional planting and painting of the unit should be welcomed. The proposal provides the applicant with an important additional source of income to their business which should be encouraged.

6.17 Considerable weight should therefore be given in favour of this application regarding the proposals compliance with Local Plan Policies NE2, DC1 and the Staffordshire Moorlands Design Guide.

6.18 Referring back to the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open and to protect the countryside, it is not considered that harm would be caused to the five purposes of including land within the Green Belt as set out at paragraph 80 of the Framework:

- To check the unrestricted sprawl of large built-up areas – the proposal would have no impact in this regard.
- To prevent neighbouring towns merging into one another – the proposal would not cause or contribute to the merging of any towns.
- To assist in safeguarding the countryside from encroachment – the proposal would be on land previously used for vehicle parking and there would be no encroachment into the countryside.
- To preserve the setting and special character of historic towns – there would be no impact on the setting and special character of historic towns.
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land - there would be no harm caused to urban regeneration initiatives elsewhere.

6.19 In summary, we conclude that the proposal would not have a greater impact on the openness of the Green Belt than the former use of the site. There would be no harm to the purposes of including land within the Green Belt and the proposal would not be inappropriate development in the Green Belt.

6.20 However, if the local planning authority concludes that the proposal would be inappropriate then there are other considerations that should be afforded significant weight in the decision making process and together comprise very special circumstances. These are set out in the following section.

7. Green Belt considerations: very special circumstances

7.1 Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, are clearly outweighed by other considerations. In essence there is a requirement to assess the harm resulting from the proposal, outline and assess the other considerations and undertake a balancing exercise whereby the harm caused by the proposal is weighed against the other considerations. If the other considerations clearly outweigh the harm, this comprises the very special circumstances required to justify granting planning permission.

7.2 The Framework does not prescribe or define the scope of very special circumstances. The weight to be given to very special circumstances is therefore dependent upon the context of each individual case. However, case law has also determined that the circumstances do not need to be unusual or specific to the particular case to be special.

7.3 There are considerations in favour of the development proposals, which should be afforded significant weight in the decision-making process as such that they outweigh the definitional harm and the very limited harm which may be caused to the openness of the Green Belt. This amounts to the very special circumstances in which planning permission can be granted for inappropriate development in the Green Belt.

7.4 The consideration that comprise the very special circumstances in this case are as follows:

- This is the most appropriate location for the proposal
- General Permitted Development for farms
- Supporting the rural economy

This is the most appropriate location for the proposal

7.5 When considering the installation for a milk vending machine and how it would operate, the applicant reviewed all available farm buildings that could be used to accommodate a milk vending machine and the options available within the existing farm complex to assess what, if any, were best suited to house the proposed milk vending machine. Any location would need to have easy access from the road network and provide ample parking and maneuvering for customers that would not interfere with the general farmyard traffic.

7.6 Wickenstone Farm comprises the dairy farm and the family run haulage and fertilizer businesses on site. The nature of these businesses involves movement by heavy goods vehicles and heavy machinery. It was considered that the existing businesses were not readily compatible with attracting members of the public. A decision was taken to locate the vending machine outside of the immediate farmyard to avoid any conflicts between the working farm and business and members of the public.

7.7 The vending machine requires an electricity and water supply; these were already in situ in the area that was used for the parking of trailers etc. The site is also easily accessible from the road. It was concluded that the vending machine would be best located in the area chosen and now subject to this application.

7.8 In summary these legitimate safety concerns are valid and should be given considerable weight in the determination of this application.

General Permitted development

7.9 Part 3, Class R, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 provides for the change of use of an agricultural building to a flexible use falling within B8, C1 or Class E without the need for planning permission subject to meeting certain criteria. Farms shops can therefore comprise permitted development. Furthermore, the sale of products produced on the farm is ancillary to the primary use of the land and would not involve a change of use in any event. The unit sells milk produced on the farm and would, if the vending machine was located within an existing building, not comprise development. As referred to above there was no location considered suitable within the farm yard complex that was considered to be suitable so a modified shipping container has been used.

7.10 The fact that the unit is selling milk produced on the farm and is located, through necessity, outside of the main group of farm buildings but on land within the farm unit must be given considerable weight. The applicants, whilst preparing this retrospective application have stated that if it had been feasible to locate the milk vending machine in an existing building within the farm complex this would have been preferable, but health and safety issues were too great to consider this as a viable option.

7.11 In summary, had a suitable building and location been available within the farm complex then planning permission would not have been required. It follows that due to the genuine concerns regarding health and safety that a lenient approach be taken as had a building been available in a suitable location then this would have been used.

Supporting the rural economy

7.12 Farm shops selling produce from the farm is a recognised form of farm diversification to enable farmers to boost their income by selling products direct to customer.

7.13 This unit was established as a way of diversifying the milk production operations at Wickenstone Farm. Whilst the majority of milk produced is still sold to the main milk companies the applicants keep back an amount that is produced on site to sell via the self-serve vending machine. The milk produced is a high quality local product and the vending machine and makes this product accessible to the general public.

7.14 Paragraph 84(b) of the Framework encourages the diversification of agricultural and other land based rural businesses. It states that:

> "Planning policies and decisions should enable:
>
> b) the development and diversification of agricultural and other land-based rural businesses"

7.15 Paragraph 85 goes onto states that

> "'sites to meet local businesses and community needs in rural area may have to be found adjacent to or beyond existing settlements and in, locations that are not well served by public transport"

7.16 Likewise, policy SS10 of the SMDC Local Plan seeks to promote and support local businesses. It states:

> "These areas will provide only for development which has an essential need to be located in the countryside, supports the rural diversification and sustainability of the rural areas, promotes sustainable tourism or enhances the countryside. The Council and its partners will achieve this through the following actions:
>
> 2. Sustain the rural economy by:
>
> - Supporting the diversification of existing farm enterprise"

7.17 The Biddulph Neighbourhood Plan also encourages farm diversification and supporting local businesses through draft policy HCT1which states:

> "Within the rural area of the parish, business, enterprise and tourism uses to diversify the rural economy will be supported subject to:
>
> - there being no significant adverse impact on the amenities of
> - nearby residential properties;
> - the rural landscape; and
> - surrounding businesses and uses, including agriculture."

7.18 Consequently, this small unit supports a highly regarded local farming business through farm diversification and would contribute positively to the rural economy.

8. Summary and Conclusions

8.1 This application is submitted in support of a retrospective planning application to regularise the creation of a small retail unit on this dairy farm selling milk direct to the public.

8.2 The unit was opened as a way of diversifying the farm's business activities which is in line with Local Plan Policy SS10, NE2 and DC1, policy HCT1 from draft Biddulph Neighbourhood Plan and the Staffordshire Moorlands Design guide as well as Paragraph 84(b) of The Framework.

8.3 It has been demonstrated through the careful location of the building along with the external design and the proposed modifications such as suggested landscaping and treatment of the exterior of the unit that the unit will have a minimal impact on the locality.

8.4 Since installation the unit has had a positive impact on the financial returns of the farm unit and is expected to continue to do so. As such the unit is complaint with policies of the Local Plan and Biddulph Neighbourhood Plan. The proposal also accords with the aims of the Framework through supporting diversification of an existing agricultural business and should be approved without delay.

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