
Appeal Decision

Site visit made on 7 April 2026

by Lewis Condé BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2026

Appeal Ref: 6003346

**Land at Ollerton Business Park, Crow Lane, Ollerton, Childs Ercall,
Market Drayton, TF9 2DB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Glenn James against the decision of Shropshire Council.
 - The application Ref is 24/03791/VAR.
 - The application sought planning permission for “Proposed B8 Use Class Employment Development comprising 3 Warehouse Units with Integrated Staff Facilities” without complying with a condition attached to planning permission Ref 23/02475/FUL, dated 21 September 2023.
 - The condition in dispute is No. 7 which states that: “Prior to the commencement of any above ground works operations being carried out, highway passing places shall be implemented fully in accordance with the approved plans (plans to be referenced in any planning consent)”.
 - The reason given for the condition is: “To coordinate the delivery of the highway improvements in connection with the development of the site”.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission (ref: 23/02475/FUL) was granted in 2023 for three warehouse units at an existing business park. This permission was subject to a pre-commencement condition (Condition 7) requiring the delivery of off-site highway passing places (hereafter referred to as the ‘highway works’). Although the highway works were considered acceptable as part of the planning permission, because they involve works to the public highway they also require a separate Section 278 agreement (S.278) under the Highways Act 1980 (as amended).
3. Following the grant of permission 23/02475/FUL, the appellant submitted plans to the local highway authority (LHA) in late 2023. However, the S.278 agreement has not been progressed, such that the appellant is unable to lawfully commence the highway works.
4. The development has been constructed without the relevant highway works having been implemented, thereby in breach of Condition 7 of permission 23/02475/FUL. Furthermore, at the time of my site visit, it appeared that at least one of the approved new units was already occupied.
5. Through application ref: 24/03791/VAR, the appellant sought to replace Condition 7 with a condition requiring the highway works to be delivered within six months of

completion of the units. This application was refused by the Council on highway safety grounds.

6. In light of the above, the main issue is whether the condition is reasonable and necessary in the interests of highway safety.

Reasons

7. The appeal site, and the wider business park of which it forms part, is located within a highly rural setting. The surrounding highway network largely consists of narrow country roads, bounded by vegetation, and frequently lacking sufficient width to allow vehicles to pass one another. From my observations, a range of vehicle types uses these roads, including large agricultural vehicles and delivery lorries.
8. Given the narrow nature of the surrounding roads, often combined with limited forward visibility, there is potential for vehicle conflicts arising from a lack of adequate passing places, particularly where heavy goods vehicles are involved. The expansion of the business park has the potential to exacerbate these conditions, with consequent harm to highway safety.
9. There is no robust evidence before me, such as a detailed traffic assessment or highway safety analysis, to demonstrate that the highway works required by permission 23/02475/FUL are unreasonable or unnecessary. While the business park has historically operated without restrictions on vehicle use, the approved development significantly increases the commercial floorspace and is likely to lead to a significant increase in activity and vehicular movements. The absence of recorded accidents to date does not, in itself, demonstrate that the highway works are unnecessary.
10. Additionally, the appeal scheme represents a substantially larger development than that proposed under a previous application at the site¹. Its transport impacts, and the resulting need for highway improvement works, are therefore likely to be materially different.
11. On the basis of the evidence before me, I therefore find that a condition requiring the delivery of the approved highway works remains necessary in the interests of highway safety.
12. I am not satisfied that the appellant's proposed alternative condition, requiring the works to be implemented within six months of completion of the units, would meet the relevant tests for planning conditions set out in the National Planning Policy Framework. Aside from concerns that such a timescale may no longer be capable of being met, the condition lacks precision and raises issues of enforceability. In particular, there is ambiguity as to what would constitute completion of the development, and there would remain the potential for some or all units to continue operating even if completion were significantly delayed or failed to occur.
13. Given my observations at the site visit, it would also not be possible to impose a condition requiring the highway works to be complete prior to occupation of the development. Moreover, there is no clear or realistic timeframe before me for when a S.278 agreement might be finalised, nor for when the highway works could subsequently be delivered. Accordingly, and notwithstanding the continued

¹ LPA Reference: 19/04895/FUL

presence of highway safety risks in the interim, I do not consider it appropriate to impose a new condition requiring completion of the highway works by a specified date.

14. Bringing the above together, I find that the condition is reasonable and necessary in the interests of highway safety. The proposal therefore conflicts with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy (adopted 2011). This policy seeks to promote high standards of design including through the promotion of safe and accessible developments.

Other Matters

15. The appellant has highlighted frustrations with the Council's handling of both the planning application and the S.278 agreement, citing significant delays and limited communication arising from internal resourcing issues within the LHA. Be that as it may, and regardless as to how the LHA may have once operated, the evidence before me indicates that a valid S.278 application has not been submitted to the LHA. Consequently, although the LHA may not have been proactive in assisting the appellant, the delays are not attributable solely to the Council.
16. The socio-economic benefits of the appeal scheme have not been quantified and, as presented, do not outweigh the identified harm or justify allowing the appeal.

Conclusion

17. For the reasons set out above, the proposal conflicts with the development plan and there are no material considerations that indicate a decision should be taken other than in accordance with it. The appeal is therefore dismissed.

Lewis Condé

INSPECTOR