

Date of Meeting	12/06/2014
Application Number	13/05423/FUL
Site Address	Land at Longcross Zeals Warminster BA126LJ
Proposal	Change of use to HGV Trailer Storage, form new vehicular and pedestrian access
Applicant	Boyes Transport Limited
Town/Parish Council	ZEALS
Ward	MERE
Grid Ref	378792 132151
Type of application	Full Planning
Case Officer	Andrew Bidwell

Reason for the application being considered by Committee: The ward member Cllr Jeans has called in the application due to the significant local interest in the proposal and the appeals site history.

### 1. Purpose of Report

To consider the above application and the recommendation of the Area Development Manager that planning permission be **Granted subject to conditions and a Section 106 agreement.**

### 2. Site Description

The site consists of agricultural land adjacent to the C380 Zeals to Mere road, to the east of Zeals village in the small hamlet of Longcross. The C380 is the former A303 (taking traffic from London to the south west), and the current A303 is now further to the south.

In planning terms the site is considered to be in the countryside. It also forms part of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB).

### 3. Planning History

S/2010/0784      change use of land from agricultural to hgv trailer storage, form  
refused            new vehicular and pedestrian access and relocation layby  
23/07/10  
Appeal Dismissed 06/05/11

S/2009/0014      change use of land from agricultural to hgv trailer storage and

Refused  
30/06/09  
Appeal dismissed  
14/10/09

new vehicular access and relocation of layby

S/2009/0107  
Refused  
20/03/09

retain fertiliser store and water store

S/2008/0341  
Refused  
11/04/08

a concrete pad for agricultural use two tanks to be placed on pad one for liquid fertiliser the other for water access off old a303 (retrospective)

S/2007/1961  
Withdrawn

change of use for hgv trailer storage and provision of new access and laying out of 15 trailer spaces and new permeable surface and fencing

### **On the adjoining land**

S/2012/0472  
Approved  
06/06/2012

erection of temporary modular building for use as a pre-school facility, including landscaping works and fencing

S/2004/0759  
Approved  
16/07/04

community indoor bowling building to serve county communities

S/2003/2195  
Refused  
17/02/04

community indoor bowling building to serve county communities

S/2001/2305  
Refused  
14/02/02

parking for 6 lorries mainly at weekends and light storage

### **4. Proposal**

Proposed change of use of land from agricultural to HGV trailer storage, formation of new vehicular and pedestrian access, Landscaping, Fencing and associated works on land at Long Cross, Zeals.

### **5. Planning Policy - including**

Adopted Salisbury District Local Plan saved policies, including the following saved policies listed in Appendix C, of the Adopted South Wiltshire Core Strategy:

*G1 (Sustainable development)*  
*G2 (General policies)*  
*C2 (Development in the open countryside)*

*C4 & C5 (Development within the Area of Outstanding Natural Beauty)*

Adopted South Wiltshire Core Strategy:

Strategic Objective 8: transport choices

Applying the Spatial Strategy to the Mere Community Area

Government Guidance:

National Planning Policy Framework March 2012

## **6. Planning Issues**

- The principle of development
- The impact on the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty -Landscape, considerations
- Highways – access/parking
- Business / Economy
- Archaeology
- Amenities of nearby property
- Drainage
- Other issues - Appeals

## **7. Consultations**

Zeals Parish Council

The parish council has provided a full letter setting out its reasons for rejection of the proposal. The full letter in which the Parish Council states, it is, once again, not able to support this application and recommends that Wiltshire Planners similarly reject it, is attached as Appendix 1.

Landscape Officer

No objections

Highways

No highway objection to this application subject to conditions being imposed

Bourton Parish Council – summary:

Can't support such a plan and strongly object to the planning application made by Boyes Transport. The Council also maintain the view that should the applicant be successful BPC considers that the villages of Bourton and Zeals could be protected from additional traffic if the proposed site access was designed in order to physically prevent any traffic leaving the site from turning right (westwards) to Bourton and that there would be no left turn onto the site.

Highways Agency

The agency is content that the proposals will not have a detrimental effect on the strategic road network. On this basis the agency has no objections.

### Archaeology

No objections – conditions should be imposed

### Economic development / growth office

Support the proposal.

## **8. Publicity**

The application was advertised by site notice posted 5/11/13 and by letter to neighbours. The following replies have been received:

### **Support**

13 letters of support have been received raising the following issues:

Noise will not be an issue as the 4 lanes of traffic on the A303 is already generating noise greater than any likely from the proposal

The site is surrounded by fields that are worked using farming machinery - so no different - there are no close neighbours to be affected

Can't see how the proposal would be visually imposing, the site is currently a mess and a waste of useable land

Other local businesses are far more imposing than this would be

Other businesses operate without problems much closer to residential property

The nursery currently has far more vehicle movements than this proposal would

Nursery is more visually prominent than this proposal will be

Much easier for Lorries to access this site than St Martins business park further in the settlement

People who live in Zeals rely on this company for employment

The company employs local drivers keeping employment local

Site is on the outskirts of Zeals and drivers do not need to drive through Zeals

Don't see why people should not be able to live and work in Zeals

The site is ideal, out of any residential area, the A303 main trunking road is just yards away and the size and access meets all health and safety criteria it would tick all of VOSA's requirements securing the job security and future of Boyes Transport.

The land is conveniently situated right on the A303, it has ample space to manoeuvre and leave trailers and the entrance and exit is spacious for safe passage



Nursery in particular are concerned with the arrival and departure times of the trailers and just to reiterate the trailers will arrive after 6 pm on a Friday and be gone by 7 am on a Monday. These timings wouldn't affect the nursery after all. Additionally a petition in support of the proposal has been received with 18 signatures.

## **Objections**

18 letters objecting to the proposal have been received raising the following issues;

Proposal will cause light and noise pollution

No guarantee that lorries will not arrive outside of agreed hours

Proposal will be a disaster for Zeals

Site is still situated within an AONB and its change of use would be at variance with the Wiltshire Core Strategy

Proposal will not bring any economic benefit to Zeals, let alone Long Cross

Applicants have not demonstrated there are no alternative sites

Proposal should be rejected as not suitable for heavy traffic use

Continued applications are insulting

Use conflicts with the day nursery use

Access to and from the site is poor

Proposal will have a negative impact on the local economy and local B&B business no assurance can be given that unused lorries will not return to their base during the week or indeed that lorries not owned by Boyes Transport will use the site for overnight storage during the week.

There would be nothing to stop Tractor units being parked overnight.

This application is for an activity totally unsuited to this quiet rural environment

Very concerned that the HGV's will journey through Zeals and Bourton, causing noise, traffic problems, danger to residents, and disturbance to properties

Harm to the AONB is not outweighed by any benefits from the proposal.

Insufficient information provided re change of use thus, Object ion noise grounds

A petition against the proposal on access safety grounds has been received from Leaping Frogs Day Nursery. The petition contains 44 signatures

## 9. Planning Considerations

Principle of Development:

The site is located within open countryside and the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty beyond any development boundary, where planning policies are restrictive of new development. Policy C2 makes clear that development in the countryside will be strictly limited and will not be permitted unless it would benefit the local economy and maintain or enhance the environment.

The site is within the Mere Community Area of the South Wiltshire Core Strategy (SWCS). The SWCS explains that 'within these Community Areas the approach is to plan as far as possible for self-contained settlements. This means focusing growth around settlements with a range of facilities, where local housing, service and employment needs can be met in a sustainable manner.'

The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these are expected to be applied and is a material consideration in planning decisions.

The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development of which there are three dimensions (economic, social and environmental). The planning system should ensure that sufficient land of the right type is available in the right places and contribute to protecting and enhancing the natural, built and historic environment.

In particular, paragraph 115 of the NPPF states that '*great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty*'.

The NPPF does not change the statutory status of the development plan as the starting point for decision making and where proposed development conflicts with an up-to-date local plan, it should be refused, unless material considerations indicate otherwise (for example whether there were significant benefits from the proposal that would outweigh the impact to the countryside and the AONB). This site is considered to be a previously developed site but, for many years has been in basic agricultural use. Planning permission was granted for an indoor bowling building on the site next door under planning application reference S/2004/0749 but, a day nursery use is now being carried on at the site.

An appeal against the refusal of planning permission S/2009/0014 on the site for an application for a change of use to HGV trailer storage was dismissed by the inspector and is a material consideration to this application. The inspector's report is attached at appendix 2.

A second application (S/2010/0784) was also refused and then dismissed at appeal. In both these appeals the inspector sited (amongst other things) the impact of the proposal on the rural setting of the area as a detrimental aspect of the application. This decision is also attached at Appendix 3

Whilst the site is located in a rural setting, it is nonetheless very close to the Mere / Zeals exit of the A303 and is sandwiched between two non agricultural uses. These are the Day Nursery on land to the East and an established Agricultural contractors type business to the west.

Whilst giving due material weight to the historic appeal decisions, when having regard to the particular site characteristics, (particularly in this case the linkages to the A303), and the fact that the site has existing commercial development both sides, the site is considered to be in a location where appropriate development should not be resisted as a matter of principle.

The impact on the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty - Landscape, considerations:

In summary, the AONB office has conferred the view that “the introduction of this industrial use to the AONB would neither conserve nor enhance the natural beauty of the AONB and therefore fails to meet the basic criteria for sustainable development within the AONB. Mr Brimble stresses the sustainable development thread in the NPPF but does not recognise that Paragraph 14, Footnote 9, provides an exception to the presumption in favour of sustainable development for AONBs and similar protected sites. In any case, the AONB is of the opinion that the proposed development is not sustainable.

There appears to be nothing new in the proposal to alter the view that the previous proposals were inappropriate for the AONB and hence this is an inappropriate proposal”.

However, the councils landscape architect has considered this proposal and has provided extensive comments. These are set out as follows:

The site is located on the edge of Cranborne Chase and West Wiltshire Downs Area of Outstanding Beauty and lies to the east of Zeals. It is bounded by existing vegetation, hedgerows and trees, and an offsite plantation to the north. Immediately to the west and east of the site is a former depot and a nursery school. To the south lies the old main road (now the C380) and beyond this the dual carriageway of the (new) A303.

Two landscape reports have been submitted with the application. The first, a Landscape and Visual Impact Assessment (LVIA) completed in March 2010, for a former application for a similar development slightly larger than the current proposal. The overall assessment found the development to be of slight significance in terms of landscape and visual effects. There is an error in the LVIA, the overall visual sensitivity (page 26) is assessed as medium. However the matrix (page 28) records sensitivity as ‘low’ which reduces the overall significance. In fact the overall significance of visual effects should be moderate not slight.

The second report is an appraisal of the first LVIA in the context of the new guidelines published by the Landscape Institute and IEMA (GLIVA 3<sup>rd</sup> Edition). Needless to say the assessment reached the same conclusions for this lesser development and the error was carried through so I should reiterate that visual

effects will be moderately significant not slight. The reason that the significance for visual effects is enhanced (c.f. landscape effects) is that there are some high sensitivity residential receptors, although these views are seen within the context of the former depot

In terms of landscape character the LVIA has demonstrated that there will be no far reaching effects beyond the site. All existing perimeter planting, save the new entrance, will be retained. While there will be a change of character from an area of scrub to a hardstand for trailer storage with new fence and gate, the existing boundary and landscape features are retained so externally this change will not be perceptible except at the entrance. Furthermore as there is development either side of the site it will not be introducing a completely new and isolated change in character. Enhancement to landscape character will be provided by new native planting along the inside perimeter of the site. The application contains no information with regard to lighting proposals and it is considered that the applicant should not use lighting in a site that is only occupied at the weekend. Although there is a loss of local tranquillity from noise pollution due to the proximity of the A303, a dark site would help protect against intrusion from light pollution at least.

In visual terms the site has the capacity to accommodate change by the virtue of its enclosure. There will be no perceivable change to any important views or skylines although there will be a new entrance to the site which will alter the local visual amenity when viewed from the C380. Additional planting to low perimeter bunds will strengthen the boundaries further filtering views and will ensure that the site is not dependant on offsite planting to provide a visual screen. Activity on site is limited to dropping off containers on Friday and collection on Monday so for the most part the site will be empty or static, and this lack of movement further helps to reduce any perceived visual effects.

In conclusion it is considered that the submitted application complies with the emerging Core Strategy Policy CP51 Landscape, that requires development proposals to consider conserving landscape character and where possible should be '*enhanced through sensitive design, landscape mitigation and enhancement measures*'. I also find that there are no significant effects arising from the proposed development that are harmful to the countryside, the landscape character or intrinsic scenic beauty of the AONB.

On balance, whilst the commentary of the inspector in the appeal decisions for the previous proposals does relate specifically to landscape issues identifying concerns, The council has to consider all relevant material planning considerations on a case by case basis. In this regard, given the expert opinion of the Councils own Landscape Architect which clearly does not oppose the application on visual impacts on the countryside setting on the edge of the AONB grounds, it is not considered appropriate to oppose the application in this regard.

Conditions will be imposed including those to secure details of planting implementation, maintenance, tree protection and fencing.

Highways – access Issues / Lorries / Section 106:

The Wiltshire highways officer has been consulted and is satisfied that the traffic generated by this proposal will not cause undue problems on the adjoining highways. A new access is proposed and it will be necessary for the existing access to be stopped up upon completion of this. This can be covered by a suitable condition. Adequate visibility is available at the proposed access.

In general highways safety and access terms therefore, there are no objections to this proposal on highways safety grounds.

The concerns regarding road and traffic conflict and safety raised by neighbours and the Day Nursery are particularly noted but, in the absence of any highways objections or evidence that the proposal would be dangerous, it is not considered reasonable to oppose the application in this behalf.

Much concern is centred on a perception of impact from lorry traffic using the site and in particular, travelling west through the villages of Zeals and Bourton and so on. The ability to do this is not what is being applied for here and the application is clear that it will not be necessary for lorries to travel through the villages west, and in any event will not be using the site other than for very limited periods between specific predetermined times. The times will be limited to collection of the trailers on Monday morning and their return on Friday evening. As such the trailers will be moved on and off the site on only two occasions per week and no tractor units will remain on site for the remainder of the time. It is therefore difficult to foresee how this limited amount of movement per week is likely to cause any demonstrable harm or unreasonable disturbance to the adjoining uses and the immediate neighbours.

Furthermore, it is worth noting that – as far as can be ascertained - the established agricultural type contractors business adjoining the west of the site is not restricted in terms of its vehicle movements. Agricultural vehicles and lorries if necessary can access this site at any time and can travel in any direction they chose. There are very few – if any – weight restrictions to access through Zeals and Bourton probably due to the fact that the road in question is wide for most of its length being formerly part of the old A303. It is not a small village road.

Furthermore, from a planning policy point of view, through adopted policy the council would normally seek were possible to support existing rural business who wished to expand into adjoining sites to grow the business. Whilst such things cannot be pre-judged, the council may find such a proposal to expand from the existing businesses - either side - difficult to resist and it is considered that the impacts of such on the immediate area are likely to be no less significant than with this proposal.

On the matter of lorry travel to and from the site, the application is clear that this would only be via the A303 junction. However, significant concern has been raised regarding this matter and how – it is claimed - this is not likely to happen in reality. Whilst the applicants past compliance with operating licences - also claimed to have been breached - is not a material planning consideration, the concerns raised are nonetheless considered to be relevant and have been taken into account in order to manage public concern.

The location beside the A303 is clearly a key deciding factor for the company wanting to locate on the site, and agreement has been reached with the applicants to negotiate a section 106 legal agreement with a "lorry routing" agreement integral to it. This agreement will clearly identify routes that can be taken and be subject to a plan that illustrates "Barred" routes. Such agreements are not un-common and the council has negotiated similar agreements elsewhere in the general area recently. Moreover it is not unusual when using such agreements for the Parish Council to be involved in the detail and monitoring of the agreement and this case would be no exception.

#### Business / Economy Issues:

Enterprise Wiltshire has set a strategic vision for Wiltshire (detailed in the Wiltshire Economic Strategy 2012-2015), it comments on the general economic resilience of Wiltshire over recent years, however, areas of concern have been identified that must be addressed in order to maintain that resilience. It is imperative that Wiltshire creates the right environment for sustainable economic growth. In order to mitigate the impact of on-going economic uncertainty internationally and nationally, Enterprise Wiltshire has set a strategic vision for Wiltshire, which builds on the resilience of the economy and will develop its strengths into the medium to long term. The intention is to create 4,500 new jobs and safeguard a further 6,000 jobs (2012-2015) through focusing on the retention and growth of indigenous businesses, while supporting inward investment.

Wiltshire's Core Strategy Submission Document states that employment development in Wiltshire should seek to improve the retention of workers within the county. This application proposal supports this statement and will importantly retain what will be a Wiltshire business and the local employment it creates as well as developing Swindon and Wiltshire as an excellent location for businesses to develop and thrive.

Located within the strategic transport corridor of the A303, Boyes Transport employs approx 24 people and currently operates on a site that is considered by them as inadequate for their purposes of running a transportation business. As outlined above a key priority for Wiltshire is creating a resilient, sustainable and competitive economy, with a focus on creating and safeguarding jobs. This proposal accords with some of the stated priorities, providing much needed expansion space for the business, enabling it to grow, safeguard jobs, and importantly retain the businesses' operation in the County. It also supports the LEP priority of stimulating economic growth. Direct jobs can be expected to have a further impact on the local economy through a multiplier effect.

If this business is unable to expand on this site, they may have to locate elsewhere or consider ceasing operations which could both lead to the relocation or loss of 24 full-time employees.

This application will allow Boyes Transport to expand and retain their operation in Wiltshire?

In summary, from an economic development perspective, there is an imperative to support this business appropriately so that they are able to continue to locate their business within the county, and ensure that any unnecessary constraints to business expansion are avoided.

#### Archaeology Issues:

This site is of archaeological interest as it forms part of the Zeals airfield, a World War II airfield built in 1941. The site contains at least one structure, probably a pillbox, associated with the airfield. Structures such as this are heritage assets.

The NPPF (and previously the now superseded Planning Policy Statement 5) states that an application should describe the significance of heritage assets affected by an application. NPPF policy 128 states that '*Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.*' The new footprint of impact appears to be restricted to the new extension. I therefore do not consider that a field evaluation is necessary.

The NPPF also says: 141. Local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.

It would be preferable for the pillbox, and any other structures which may be present on this site, to be preserved and managed. The layout plan shows the Pill Box to be located on the west edge of the red line site. As such it should be possible to retain it in situ. However, if permission is granted and the development cannot take place without removal of the structure(s), then a programme of archaeological recording should take place in advance of any works. Suitable conditions will be imposed.

#### Amenities of nearby property:

Consideration has been given to the impact of the proposal on nearby residential dwellings. The nearest properties are to the south west of the site, including Long Cross Cottages. Conditions could be imposed to limit the impacts of the proposal from noise and disturbance (outside of certain hours).

It was not considered that the impact on nearby properties should form a reason for refusal previously, and this was not a matter that the Inspector considered should justify dismissal of the appeals. It is therefore considered that (other than in terms of traffic movements, see above) the proposal would not conflict with Local Plan policy G2.

Whilst concerns have again been raised regarding disturbance from noise, light and visual amenity in this proposal, for the reasons set out above, and in the absence of any evidence of harm, there are no objections in these regards. Furthermore it is worth noting that the agricultural contractors business has lighting which has not – as far as can be ascertained – caused problems and the relatively recently approved day nursery application did include significant lighting which was found to be acceptable by the council.

Drainage:

The applicants design and access statement confirms that the site will be surfaced with a permeable covering allowing surface water to soak through. The site is on underlying Green sand and thus this approach to drainage is considered to be acceptable. Wessex Water have been consulted and have made no comments in this regard.

### Other issues

The applicants agents have provided further information to address the concerns and issues raised following the previous appeal decisions and initial consultation period. Member's attention is drawn to the further information which, is in the form of a letter attached to this report as appendix 4.

Barrister – letter received

A letter of objection to the proposal has been received which is also attached to this report at Appendix 5. This letter is from a barrister which - in summary - refers to the matters regarding the councils ability to (amongst other things) refuse to determine the application as a result of the appeals history. It is the view of the case officer that this letter requires careful consideration due (amongst other things) to the significance of the source of this letter. Legal advice has been sought and an update will be given at the meeting.

## **10. Conclusion**

On balance, whilst it is clear that this proposal remains to be controversial locally, the specific details relating to this proposal including the proposed landscaping, the reduced site area, the safe access and close proximity to the A303, and the section 106 "lorry Routeing" agreement, the proposal is considered to be in general accordance with relevant planning policy.

Furthermore in combination with appropriate planning conditions including a condition controlling hours during which the site can be in use, the proposal is not likely to cause any demonstrable environmental harm adversely affecting neighbour amenity or other matters of acknowledged importance. As such the proposal is considered to be acceptable from a Town & Country Planning point of view.



## **Recommendation**

To delegate to the Area Development Manager to approve planning permission subject to the signing of a section 106 agreement to include a Lorry routing agreement, and subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence on site until details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being first brought into use.

REASON: In the interests of visual amenity and the character and appearance of the area.

3. No development shall commence on site until details of the stopping up of all existing accesses, both pedestrian and vehicular, have been submitted to and approved in writing by the Local Planning Authority. That stopping up shall take place in accordance with the approved details within one month of the opening of the new access. After that time the sole means of vehicular and pedestrian access to the development shall be as shown on the plans hereby approved.

REASON: In the interests of highway safety.

4. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);

- retained historic landscape features and proposed restoration, where relevant.
- All shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

#### Landscaping To Be Carried Out & Maintained

5. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. No development shall commence within the area indicated (proposed development site) until:

- A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and
- The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

Further Recommendations: The work should be conducted by a professional recognised archaeological contractor in accordance with the written scheme of investigation agreed by this office and there will be a financial implication for the applicant.

7. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "*Guidance Notes for the Reduction of Obtrusive Light*" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site

8. The manoeuvring Delivery and collection of trailers in connection with the use hereby permitted shall only take place between the hours of 06:00 and 07:30 in the morning and 18:00 and 19:30 in the evening) from Mondays to Fridays. The use shall not take place at any time on Sundays and Bank or Public Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

9. The development hereby approved shall be carried out in accordance with the following list of documents and plans:

- Design & Access Statement, Dated October 2013, received 25/10/13
- Landscape & Visual Impact Assessment, Dated March 2010, received 25/10/13
- Report on Landscape Character & Visual Implications of Planning Submission, Dated October 2013, received 25/10/13
- Plan ref No: 995/PL1 "Application Site – As existing Plan" Dated 8<sup>th</sup> October 2013, received 25/10/13
- Plan ref No: 995/PL3 "Proposals Plan" Dated 10<sup>th</sup> October 2013, received 25/10/13
- Plan ref No: 08 079 – 7, Revision F "Location Plan" Dated 11/11/2008, received 25/10/13

Reason: In the interest of clarity

## **Appendices**

Background Documents Used in the Preparation of this Report:

Zeals Parish Council letter. Appendix 1

Appeal decision letter Ref: APP/Y3940/A/09/2108677 - Appendix 2

Appeal decision letter Ref: APP/Y3940/A/10/2139273 - Appendix 3

Applicants further information letter. Appendix 4

Letter from Barrister ..... Appendix 5

## Appendix 1 - Zeals Parish Council letter

### Zeals Parish Council

**Chairman:** Mr C Spencer. Search Farm, Stourton. Warminster, Wiltshire BA12 6QQ

**Clerk to the Council:** Mr P.Knott. Garden Cottage, Stalbridge Weston,  
Sturminster Newton. Dorset DT10 2LA

21<sup>st</sup> November 2013

Mr Andrew Bidwell  
Development Services  
Wiltshire Council  
PO Box 2281  
Salisbury  
SP2 2HX

Dear Mr Bidwell

#### **Planning Application Number 13/05423/FUL Proposed HGV Lorry Park Zeals**

This application differs little from the two previous applications, both refused by the Wiltshire Council and the Appeals Inspectors. The application or the circumstances surrounding the application have not materially changed except in one significantly regard.

After much deliberation by the planners, jumping through hoops by the applicant and full support from the village, Leaping Frogs Nursery were granted temporary planning consent for a pre-school on the adjacent site to this application. Granting permanent permission for the storage of trailers on the adjoining site would be wholly inconsistent and incompatible on safety grounds for children and parents many of whom have to walk past the proposed lorry entrance on foot. We herewith consider both this and the previous appeals separately.

The decisions taken by the Appeals Inspectors following consideration of the two previous appeals should again stand in this case for the following currently highly relevant reasons-

1. The site is located within an AONB. Relevant Wiltshire Core Strategy policies include:
  - Policy C2- Development in the countryside will be strictly limited and will not be permitted unless it would benefit the local economy and maintain or enhance the environment.
  - Policy C4 - Within the Cranborne Chase and West Wiltshire Downs Area of Outstanding National Beauty development will not be permitted if it would harm the natural beauty of the landscape.
  - Policy C5 - Within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty small scale development proposals will only be permitted where they are in accordance with the policies of this Local Plan and provided that: the siting and scale of development are sympathetic with the landscape of the AONB in general and of the particular locality, and standards of landscaping and design are high, using materials which are appropriate to the locality and reflect the character of the area.

2. The proposed development will totally change the character and appearance of the site, previously used exclusively for agricultural purposes in keeping with the surrounding area.
3. 16 HGV trailers, with tractor units entering and leaving the site will have a significant impact on nearby properties and surrounding area.
4. Assurances have been given that lorries will not return to the site during the week, or use the site for overnight storage or parking for tractor units. Inclusion of an undertaking restricting usage of the site for overnight storage or parking for tractor units in a Section 106 Agreement would provide some reassurance but there will be no means of enforcement.
5. The site is located within the small, quiet hamlet of Longcross, with eight residential properties and a bed and breakfast business in close proximity. Sixteen HGV trailers being moved by tractor units will have a serious impact on local noise levels for nearby properties, will impact on the resale value of these properties and affect the viability of the established business.
6. The application states that vehicle movements will only take place on Monday mornings and Friday afternoons. Whilst an undertaking from Boyes Transport to this effect and that their lorries will not drive through the villages of Zeals and Bourton, supported by the Section 106 Agreement, could be entered into there is no means of enforcement.
7. The local community will receive no economic benefit from the application whatsoever.
8. The applicant's representatives at the PC meeting were unable to give any assurance that their trailers are always empty. These would be a magnet to thieves and high powered security lighting required
9. The applicant would no doubt want to install other high level floodlighting to assist with vehicle movements after dark. This would be very conspicuous & intrusive to the neighbouring properties and the pre-school..
10. The applicant could produce no evidence of a Sequential Site Search to demonstrate that they had made efforts to locate a suitable site NOT within an AONB.

Much emphasis is placed by the applicant in the establishment, just over a year ago, of Leaping Frogs Nursery and Pre-School on an adjacent site to that of this application. This site was granted permission to be expressly used for the purposes of a pre-school by Wiltshire Planners. Its quiet rural location is considered a safe, secure and ideal location for the education of young children. The site was formerly a Wiltshire Council owned and run Picnic Site but was disused and derelict. It was a nuisance and a liability to Zeals Parish Council. It now provides good rental income to the parish. Therefore the following are considered highly relevant to this application:-

- 1. The Pre-School is very successful enterprise, providing employment to twelve local people, a much-needed service to the local community and is currently being used by 140 families from the surrounding area.**
2. The proposed trailer park, if it was to proceed, would have a significant impact on this recently established business. This would be a major loss to the local villages and affect the viability of Whitesheet Primary School in Zeals.
- 3. The application by Leaping Frogs was massively supported by the local community – the proposed trailer park is not supported at all.**
4. At the insistence of Wiltshire Planners the planning permission for the adjoining site, for the Pre-School, was only for a period of five years, with mobile buildings providing the accommodation. No permanent buildings have been or can be erected.
- 5. At peak early morning and late afternoon periods up to 50 vehicles can be on site at the Pre-School, delivering or collecting children, at the same time as HGV vehicles are entering or exiting through an access immediately next to the one for the Pre-School.**
- 6. Many parents walk their children to the Pre-School from Zeals village centre. They would have to walk across the trailer park entrance in the path of the lorries coming and going.**

For all of these above reasons this Parish Council is, once again, not able to support this application and recommends that Wiltshire Planners similarly reject it.

**Yours faithfully**

**John Wigg**  
**Chairman Zeals PC Planning Committee**

## Appendix 2 - Appeal decision letter Ref: APP/Y3940/A/09/2108677



### Appeal Decision

Site visit made on 28 September 2009

by **Gareth Symons BSc(Hons) DipTP**  
**MRTPI**

an Inspector appointed by the Secretary of State  
for Communities and Local Government

The Planning Inspectorate  
4/11 Eagle Wing  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

☎ 0117 372 6372  
email: [enquiries@pins.gsi.gov.uk](mailto:enquiries@pins.gsi.gov.uk)

**Decision date:**  
**14 October 2009**

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**Appeal Ref: APP/Y3940/A/09/2108677**  
**Land at Long Cross, Zeals, Wiltshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Boyes Transport against the decision of Wiltshire Council.
- The application Ref: S/2009/14/CU, dated 24 December 2008, was refused by notice dated 30 June 2009.
- The development proposed is the change of use of land from agricultural to HGV trailer storage.

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#### Decision

1. The appeal is dismissed.

#### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, bearing in mind the appeal site's location in the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB).

#### Reasons

3. An AONB is afforded the highest status of protection in relation to landscape and scenic beauty. The appeal site is also in the countryside where national planning policies seek to strictly control development. A key principle is to protect the countryside for the sake of its intrinsic character and beauty. In line with this approach policy E19 from the Salisbury District Local Plan only allows limited expansion of existing employment uses beyond existing boundaries if, amongst other criteria, there is no adverse impact on the character of the surrounding landscape. Related local plan policy E21 rules out the development of new sites for employment purposes in the open countryside.
  4. The appeal site has had some previous uses associated with the nearby former WWII airfield and agriculture. Nevertheless, these have either now ceased or are very low key. The site is not categorised as previously developed land in planning terms. The site is overgrown, but in my view it looks far from derelict. In contrast the laying out of the site to accommodate what might be sixteen Heavy Goods Vehicle (HGV) trailers along with the associated access arrangements would be a fundamental and wholesale adverse change to the rural appearance of the site.
  5. I acknowledge the presence of existing trees and that a landscape and visual impact assessment was carried out. However this concluded that the proposal
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would have a moderate impact. In my view that is not insignificant. Also, despite what the appellant states, the AONB team did not withdraw its objection to the scheme. Serious landscape concerns were raised and these were reflected in the strongly recommended and stringent nature of the conditions suggested, if the Council was minded to approve the application. These show to me that mitigation by planting is not the way forward and cannot necessarily be relied upon to ameliorate the impact of the proposal. Even if it did help to lessen the visual impact, the proposed new and substantial commercial presence would harm the basic character of this part of the AONB contrary to the aim of conserving the landscape.

6. I appreciate the struggle to identify a place to store the HGV trailers. The support for moving to this site from the neighbouring planning authority is also noted. It is clearly unsatisfactory for a haulage business to have such an ad hoc and un-secure arrangement of lorry trailers parked in various lay-bys or roads when not in use. Moving some operations to the appeal site would resolve this situation. Nevertheless, the firm has operated for over twenty years under its current arrangements. Over this time the business has built up to its current size which generates 17 full-time jobs with numerous connections to other businesses in the area and further afield.
7. I do not want to necessarily hinder or frustrate the future interests of the haulage firm. However, given the success of the business so far, there is nothing of any substance to support statements that the business and jobs would actually be at risk if this appeal failed. Road traffic problems around the current transport depot referred to by the police seem to be relatively minor and they do not seriously threaten the future of the business.
8. I recognise that other national, regional and local planning policies offer support for business uses in terms of the benefits that they bring to local economies. Also there are transport policies that might lend support to the proposal. However these cannot be considered in isolation from countryside protection policies. Indeed of the other policies and objectives referred to, in the main, they also seek to protect and maintain an attractive countryside. There is a balance to be struck in situations such as this. In doing so, PPS7 *Sustainable Development in Rural Areas* advises that in an AONB the conservation of the natural beauty of the landscape and countryside should be given great weight in planning policies and development control decisions in such areas. I attach this weight accordingly and that outweighs other planning aims, including those relating to economic development and transport.
9. The adjacent former Council depot, now used for agricultural machinery and plant repairs, is acknowledged. However, the presence of another business does not mean that other land should be developed. Extending the agricultural repair business into the appeal site either by the current operator, or by the appellant if they bought that site and wanted to expand into the adjoining land for haulage purposes, may be considered differently under the terms of local plan policy E19. However, that is not what is before me and there is no planning history on the appeal site that I am aware of to suggest that such an extension might be possible. This argument therefore has only limited weight.
10. The history of the former picnic and toilet area is noted, including planning permission for a bowling club. However I understand that permission has now



expired. Also the community background to that case is different from this appeal which points me towards the premise that each case should be considered on its individual merits. In the same context, what other employment uses the Council may have approved elsewhere in and around Zeals have very little bearing on this appeal. Alleged inconsistency of decision making by the Council is a matter between the appellant and the Council away from this appeal.

11. I have read the appeal decision relating to land at Beehive Cottage, Old Sarum, Salisbury. That was for a change of use of a building and the erection of a new building to form a healthcare clinic. The level and nature of existing development at the edge of Salisbury also seems very different to the setting of this appeal site. Given these considerations, despite the parallels referred to by the appellant, the other appeal case is materially different from the one now before me which very much limits the weight to be attached to it.
12. I appreciate that the appellant sought the advice of the Council's officers before purchasing the site and how this was favourable subject to specific issues. However, in my experience such opinion does not bind a local planning authority's decision on any future planning application. The same can also be said about an officer recommendation for approval. Members of a planning committee are not duty bound to accept the advice of their officers. Therefore, the nature of the advice on which the decision to purchase the site was made does not weigh in favour of the proposal.
13. I accept that from a road point of view there is no objection to the scheme from the highway authority or the Highway Agency. I also note the unilateral undertaking that seeks to control traffic turning, provide road signage and a replacement lay-by. Therefore while some objectors have raised traffic concerns, these do not mean that the appeal should fail on these grounds. I do not find any significant harm to interests of reducing the need to travel or to surrounding residential amenity, taking into account that the Council's Environmental Health Officer did not object to the scheme. I also agree with the appellant that being outside the housing policy boundary of Zeals is not particularly relevant.
14. However, these and any other matters raised are not sufficient to outweigh my finding of harm to the character and appearance of the area which is statutorily designated for its scenic quality. As such I find a conflict with the countryside protection aims of local plan policies E19 and E21. Therefore the appeal fails.

*Gareth Symons*

INSPECTOR



## The Planning Inspectorate

Quality Assurance Unit  
Temple Quay House  
2 The Square  
Temple Quay  
Bristol BS1 6PN

Direct Line: 0117-372-8252  
Switchboard: 0117-372-8000

<http://www.planning-inspectorate.gov.uk>

Jenny Strange  
Wiltshire Council  
Wyndham Road Office  
61 Wyndham Road  
Salisbury  
Wiltshire  
SP1 3AH

Your Ref: S/2009/14/CU  
Our Ref: APP/Y3940/A/09/2108677/NWF  
Date: 14 October 2009

Dear Ms Strange

**Town and Country Planning Act 1990**  
**Appeal by Boyes Transport**  
**Site at Land At, Long Cross, Zeals, Warminster, BA12 6NE**

I enclose a copy of our Inspector's decision on the above appeal.

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at [www.planning-inspectorate.gov.uk/pins/agency\\_info/complaints/complaints\\_dealing.htm](http://www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm). This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 0207 947 6655.

Yours sincerely

Jacky Parsons

COVERDL1



You can now use the Internet to submit documents, to see information and to check the progress of this case through the Planning Portal. The address of our search page is - <http://www.pcs.planningportal.gov.uk/pcsportal/casesearch.asp>  
You can access this case by putting the above reference number into the 'Case Ref' field of the 'Search' page and clicking on the search button



# The Planning Inspectorate

An Executive Agency in the Department for Communities & Local Government and the Welsh Assembly Government

## 21 Century Appeals Service Proportionate, Customer Focused and Efficient

### Background

The Planning Act 2008 received Royal Assent on 26 November 2008. One of the main aims of the Act is to improve the speed of the appeals process. The focus is on the principles of proportionality, customer focus and efficiency.

Guidance is being developed and will soon be available on our website. Look out for this at the links overleaf.

The following is a brief overview of the key changes coming into place on 6th April 2009.

### • Nature and Content of Appeal Documents

Appellants and local planning authorities (LPA) must ensure that their reasons for refusal and grounds of appeal (GoA) are clear, precise, comprehensive, and that the GoA relate to the scheme as refused at application stage, without substantial changes which could lead to any party being prejudiced. Applicants should not normally proceed to appeal unless all efforts to negotiate a solution with the LPA, including through amending their proposals, have been exhausted. They should be confident at the time of appeal that they have a clear case and do not need to commission further evidence.

### • Determining the Appeal Method

The Planning Inspectorate (on behalf of the Secretary of State for Communities and Local Government) will be able to decide whether planning or enforcement appeals under the 1990 Act should proceed by written representations, hearing or inquiry. The appellant and LPA will have the opportunity to put forward their views on their preferred procedure. Criteria for determining the procedure (indicative) can be found on our website.

### • Householder Appeal Service

There will be a streamlined appeal process for householder planning appeals to be determined within 8 weeks. The appeal period for householder appeals will be 12 weeks.

### • Meeting the timetables

Once an appeal is accepted and validated by the Planning Inspectorate, it is crucial that all parties adhere to the statutory deadlines at each stage. Parties should also maintain a regular and continuing dialogue to ensure that the issues can be clearly established between them, with no last minute surprises arising.



### • Streamlined Appeal Procedures (Statement of Common Ground)

There is new guidance being issued to streamline the appeal process. An example of the new streamlined process is main parties will no longer be able to submit final comments for hearing or inquiries at the 9 week stage, and the statement of common ground will be required 6 weeks after the appeal has started.

### • Correction of Errors

The appellant or landowner's written consent will no longer be required to correct an error in a Planning Inspector's decision under the "Slip Rule" (i.e. a minor error that does not materially affect the decision).

### • Making Costs Applications

Parties to an appeal will be able to apply for Costs in written representation cases. A revised Circular on Costs is in preparation.

## Key Websites

Key websites for information regarding the 21st Century Appeal Service.

### **21st Century Appeals Service**

For a full explanation of all of the changes described overleaf and the latest information on making an appeal using the 21st Century appeals service visit the '21st Century Appeals Service' web page on the Planning Inspectorate web site:  
[http://www.planning-inspectorate.gov.uk/pins/21st\\_century/index.html](http://www.planning-inspectorate.gov.uk/pins/21st_century/index.html)

### **Householder Appeal Service**

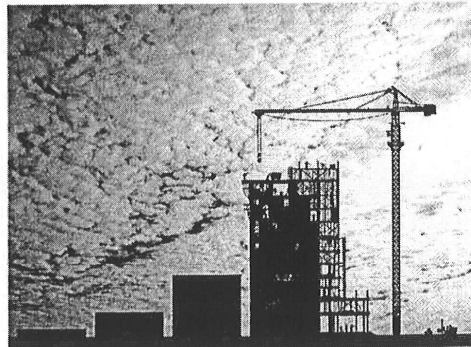
Information about the new Householder Appeals Service is on the Planning Inspectorate's website:  
[http://www.planning-inspectorate.gov.uk/pins/appeals/householder\\_appeals.htm](http://www.planning-inspectorate.gov.uk/pins/appeals/householder_appeals.htm)

### **The Planning Act 2008**

To view the actual Planning Act 2008 visit the Office of Public Sector Information (OPSI) website:  
[http://www.opsi.gov.uk/acts/acts2008/ukpga\\_20080029\\_en\\_1](http://www.opsi.gov.uk/acts/acts2008/ukpga_20080029_en_1)

### **Making an Appeal**

For general information on making an appeal, to follow the progress of an appeal and to submit an appeal online, visit the Planning Portal website:  
<http://www.planningportal.gov.uk/pcsl>





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## Appeal Decision

Site visit made on 3 March 2011

**by R J Marshall LLB Dip TP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 May 2011

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**Appeal Ref: APP/Y3940/A/10/2139273**

**Land at Long Cross, Zeals, Wiltshire BA12 6NE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Boyes Transport Limited against the decision of Wiltshire Council.
  - The application Ref S/2010/784/FULL, dated 6 April 2010, was refused by notice dated 23 July 2010.
  - The development proposed is change of use of land from agricultural to HGV trailer storage, form new vehicular and pedestrian access and relocate layby.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Following my site visit the Planning Inspectorate (PINS) contacted the Council and the appellant on my behalf seeking their observations on the Ministerial Statement of 23 March 2011, Planning for Growth, and some other detailed matters. Both parties have responded to this and their replies have been taken into account in this decision.

### Main Issue

3. The main issues in this appeal are a) whether the proposed development accords with national and local Policies on the location of new development and its effect on the character and appearance of the area having regard to its location in the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB) and b) if it is found to conflict with such Policies, and fails to have due regard to the high status of protection afforded to AONBs, whether this would be outweighed by other material considerations.

### Reasons

#### **Main issue**

#### *Background*

4. In 2009 an appeal was dismissed for a similar proposal made by the same appellant. It was found that the proposed development would harm the character and appearance of the area and that none of the matters put forward in support outweighed that harm.

5. The appellant says that there are material differences between that proposal and the one in the current appeal. The differences referred to include the scale of the proposal, the findings of a new landscape assessment and evidence on the appellant's need for these premises. Finally, it is said that Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4), which postdates the previous appeal decision, provides more favourable national planning guidance for the scheme.

*Rural Location/Character and appearance*

6. The appeal site is in a countryside location within the AONB beyond any development boundary. It fronts onto the C380 and is close to an access with that road and the A303.
7. The appeal site is a roughly rectangular shaped area of land, once said to have been agricultural land but now scrubland that has been unused for many years. Along its road frontage is a hedgerow and to the rear of the site a coniferous woodland. To the west of the appeal site is a small depot for the service and repair of agricultural plant and machinery. To the east is a well wooded area. This is the site of a former picnic area. At one stage planning permission was granted for an indoor bowling club on this land. However, it is understood that this permission has now lapsed.
8. In the vicinity of the appeal site the AONB boundary runs along the adjoining C380. In itself the appeal site is an unremarkable flat piece of land and that part of the coniferous woodland to the north is of little note. However, much of its wider setting is most attractive, comprising rising downland within the AONB to the north and attractive fields and hedgerows and groups of cottages to the south and west. The A303 runs to the south of the C380. However, it appears to be at a slightly lower level and does not intrude unduly upon the appeal site. The overall impression is of a site in a most attractive rural setting.
9. The appeal site comprises a large area of land. It is proposed to lay most of the site down to hardstanding. Most of the perimeter of the site would be delineated by a proposed low bund and associated new planting. On the boundary with the highway this bund and planting would be to the rear of the existing hedge. In addition, supplementary planting to this hedgerow is proposed. An existing gateway towards the west of the site would be blocked up and access to the site would be from a widened gateway to the east.
10. The application plans show only a small part of the site at its far western end to be used for the parking of 10 articulated trailers. In the scheme considered under the previous appeal it had been indicated that 16 trailers would be stored. Returning to the current proposal, a note on the plan says that tractor units would not be stored on the site. The remainder of the proposed substantial hardsurfaced area is shown clear of any development or proposed parking. However, a diagram shows that some of this area would be used for the manoeuvring of vehicles.
11. The appellant's detailed landscape assessment concludes that in visual and landscape character terms the proposed development would be of only slight significance. The evidence given on the previous appeal was that that proposal would have a moderate impact. This degree of impact was felt to be sufficient, in this AONB location, to warrant dismissing the appeal.

12. The new landscape study has been closely assessed having regard to all the submissions made and an extensive site visit was undertaken. It is considered that the impact of the proposed development, having regard to the sensitivity of the landscape and to the ability to mitigate the impact of the proposal on the landscape, has been underestimated.
13. In part this is because of the weight the appellant's landscape assessment places on the quality of the appeal site per-se and its immediate surroundings. Insufficient account has been taken of the broader context of the site with regard to the downland to the north in the AONB and the attractive landscape to the south and west. The fact that the lie of the land and extensive woodland would screen the site from many areas does not prevent it appearing, especially when travelling along the C380, as an integral part of its surroundings including the nearby downland within the AONB.
14. Moreover, it is considered that undue weight should not be placed on the commercial depot to the west of the site. This is not an attractive site and seen from the west buildings and equipment stored on it are noticeable. However, it is a much smaller property than the appeal site and this limits the extent to which it intrudes harmfully on the character and appearance of the surrounding area. What harm it does cause is no justification for development that might add to that harm. The appellant also refers to the land to the east of the site once used as a picnic area. However, no substantial evidence has been provided on the impact that this use had on the character and appearance of the area. This area is heavily wooded and there is little evidence from the roadside of the former use. Little weight should be given for the permission for a bowling facility on this site given that the permission has lapsed.
15. Turning to the impact that the proposed development would have on the landscape much has been made of the scope for the mitigating effect of landscaping. A substantial amount of landscaping is proposed and the appellant suggests that this is a major factor leading to the revised landscape assessment. However, it would be unwise to rely too much upon this. First, it could take some time for planting of an extent that would screen a site of this size and proposed use to become established. Second, it would not be possible to require the retention and maintenance of such planting in perpetuity. In the previous appeal decision the Inspector, correctly, noted that "mitigation by planting is not the way forward". There is thus the potential for the proposed use of the site to be sufficiently apparent in views along the C380 in its vicinity to be to the detriment of the character and appearance of the area. This in itself would be harmful.
16. In arriving at this view it is accepted that lorries could currently be parked on the layby in front of the site. However, such parking would be likely to be a relatively transient affair and something often associated with such roads. It does not justify development of the type proposed. In any event the layby would be re-provided a short distance to the east so the potential for lorry parking in the area would not be removed.
17. Moreover, the need to provide security in a fairly remote location with a lengthy road frontage needs to be taken into account. Proposals for security lighting, if later regarded as necessary, could be difficult to resist. Such lighting, even if required to be approved by condition, could well add further harm to the proposed development. Whilst this matter is not relied upon in this decision it does add weight to the conclusion reached.



18. Also adding weight to the conclusion is the pressure that could arise to allow an expansion of the commercial operation of the site, either from the appellant or future occupiers. Given the substantial size of the site there is a clear potential for a much more extensive use of it than is now suggested would take place. A condition could be imposed limiting the number of trailers stored. However, once the principal of a commercial use of the site had been established it may well be difficult to resist later proposals for a more intensive use that would, cumulatively and over time, have an even greater adverse effect on the character and appearance of the area.
19. It is considered that the proposed development would detract from the character and appearance of the surrounding area. This would be contrary to Policy C2 of the Salisbury District Local Plan (2003) in so far that it seeks to strictly limit new development in the countryside and to Policy C4 in so far that it has regard to guidance in Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) on the need to conserve the natural beauty of the landscape and countryside of the AONB.
20. In arriving at this view regard has been had to the appellant's reference to Local Plan Policy E17. However, that relates to the developments involving the construction or conversion of buildings on the edge of settlements and is thus not applicable in this case.

*Other material considerations*

21. As the Inspector noted in the previous appeal there is other national guidance and regional and local planning Policies that offer support for business uses in terms of the benefits that they bring to local economies. That did not outweigh the harm that he found would arise to the character and appearance of the area.
22. However, regard must now also be had to PPS4. This advises Councils to take a positive and constructive approach to planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably. In rural areas development should be supported when, amongst other things, it enhances the vitality and viability of market towns and rural services. However, this has to be seen in the context of other guidance in the PPS, that the countryside should be protected for the sake of its intrinsic character and beauty and that in rural areas there should be strict control of economic development in the open countryside away from existing settlements. This reiterates guidance found elsewhere.
23. The appellant refers to a seminar on PPS4 given by the Department for Communities and Local Government. This referred to the economic downturn not being over and the need, therefore, to support the economic aspirations of communities. However, whilst there is no doubt that significant weight should be attached to the need to secure economic growth and employment this should be consistent with PPS4 read as a whole.
24. Account now also needs to be taken also of the Ministerial Statement "Planning for Growth". This gives a high priority to sustainable economic growth and jobs. It says that the answer to development and growth should wherever possible be "yes", except where this would have compromise the key sustainable development principles set out in national Planning guidance. These principals include the maintenance of high and stable levels of economic growth and employment, but also require the effective protection of the environment. The

Ministerial Statement also makes it clear that all relevant considerations need to be taken into account and that decisions should be consistent with guidance in PPS4.

25. The appellant's operate a haulage company established in the mid 1980s and built up since then to its present size. The company employs 16 full-time HGV drivers and one mechanic. It is an important part of the local business community with many links to other businesses in the area. The current proposal, whilst opposed by many residents in the local community, is supported by a substantial number of local businesses.
26. The business is based on the site, at Stoke Trister, on which it was founded. This is a site in the countryside to the south of the A303 and accessed via country lanes. This site was viewed at the appellant's request. The tractor units for the business are parked on the site, and so are some trailers. However, the appellant says that the poor access to it along rural lanes makes the site unsuitable for this purpose.
27. It is also said that insufficient space on the Stoke Trister site has resulted in the need to park trailers in laybys and in and around industrial estates in the nearby town of Wincanton. This has led to an Inquiry in December 2010, held by the Traffic Commissioner, and a formal warning being issued to the company for breaching its operator's licence. The appellant says that the implications of this warning are that the company could have its operator's licence revoked, curtailed, suspended or removed in its entirety should further complaints arise. In that event, says the appellant, it would result in the loss of employment in connection with his business and also the businesses locally that serve his operation. It is said that in the previous appeal decision, which predated the Traffic Commissioner Inquiry, insufficient account was taken of the potential threat to the business.
28. The site at Stoke Trister is far from ideal for the purposes of the appellant's business given its location off narrow rural roads. However, it seems as though this would continue to be the base for the appellant's large tractor units. Moreover, even if the appeal was allowed this would not prevent the storage of trailers on this site either by the appellant or a future operator. Limited weight should therefore be attached to the unsuitability of the present site in terms of the impact of vehicles on country lanes.
29. The appeal site is much more conveniently located with regard to the main road network than Stoke Trister. However, the greatest advantage of such a site would appear to be if the entire business operated from it. As it is only proposed to store trailers on the site the benefit in business terms of a location close to the A303 would be more limited than would otherwise be the case.
30. Turning to the threat to the future of the business referred to by the appellant the company has sought unsuccessfully over many years, prior to the purchase of the appeal site in 2007, to find a site in the locality to store trailers. The potential implication of the loss of jobs is a matter, especially in current economic circumstances, to which substantial regard should be had. However, the potential harm to the character and appearance of the area from the development as applied for is such that these considerations would not justify the proposal. Adding weight to this view, though I do not rely on it, the appellant has not adequately explained why the proposed site is required when 2 authorised operating centres are specified on the Goods Vehicle Operator's licence. On the second site more trailers and vehicles may be stored than at

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Stoke Trister. Taking both sites together the licence authorises the use of 14 vehicles and 14 trailers. The appellant says that the second site does not have planning permission for trailer storage and that it has not been used by the appellant. However, this does not adequately address whether the site could lawfully be used for this purpose.

31. A further concern lies on the principle of a case being made out on the needs of a particular company when the planning permission would run with the land and guidance in Circular 11/95 on conditions is that it is seldom desirable to provide otherwise. The appellant has said that there would be no objection to a condition making the permission personal to the appellant company, or to Mr and Mrs Boyes, presumably to overcome concerns on the permission running with the land albeit no express reason is given. However, guidance in Circular 11/95 is that conditions limiting a use to a company are inappropriate. This is because shares can be transferred to other persons without affecting the legal personality of the company. As the application is not under the name of Mr and Mrs Boyes, a condition should not be imposed limiting permission to them personally. In any event, even were it possible to impose such a condition, it could well be difficult to resist later attempts to remove it.

*Conclusion on main issue*

32. Drawing together my findings on this issue the matters put forward by the appellant in support of the proposal the needs of businesses and the retention of employment are potentially weighty considerations. However, there is a need to balance this with the protection of the environment. The case on environmental grounds to refuse permission is strong and the appellant has not made out a sufficiently sound case to overcome that harm.
33. It is concluded that the proposed development would fail to accord with national and local Policies on the location of new development, would detract from the character and appearance of the area and fail to have due regard to the high status of protection afforded to the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB). This harm would not be outweighed by other material considerations.
34. In arriving at this view regard has been had to 2 appeal decisions referred to by the appellant. In enforcement appeal APP/M0655/C/09/2097507 planning permission was granted for the storage of heavy goods vehicle trailers on a site near Warrington. However, whilst some similarities exist between that case and the one in this appeal the characteristics of the site and its location differ significantly from the case in the current appeal. Moreover, although a personal condition was imposed, relating to individuals, that does not alter my view that in the case before me that would not be acceptable. On appeal APP/N1215/A/09/2113045 planning permission was granted for an agricultural building in an AONB. However, the circumstances of that development differ significantly from the current appeal. Thus the fact that the Inspector found that the need for the proposal outweighed harm in that case is not indicative of the approach to be taken on the appeal before me.

**Other matters**

35. The Council had also been concerned that an Undertaking was not in place to ensure the relocation of the layby fronting the site. However, it has correctly conceded that this could have been dealt with by Grampian condition.

36. The Council was also concerned that no Undertaking had been submitted to ensure that lorries from the site did not travel east from the site through the nearby village of Zeals on the C380 to the detriment of residents living conditions. The appellant has now submitted an Undertaking covering signage and saying that the best endeavours would be used to prevent vehicles travelling this way to and from the site. Like some local residents I doubt the enforceability of the Undertaking. That said, given the good access to the east of the site onto the A303, it is unlikely that much traffic from the site would travel west.
37. Notwithstanding local concerns the site inspection showed adequate visibility splays at the site access and the distance of the site from houses should prevent unacceptable harm to residents from noise and disturbance or pollution.
38. However, the above considerations do not make the proposed development acceptable given the harm found to the countryside and AONB.

**Conclusion**

39. For the reasons given above the appeal is dismissed.

*RJ Marshall*

INSPECTOR

## Appendix 4 – Applicants further information letter

# BRIMBLE, LEA & PARTNERS

Planning Consultants, Chartered Architects & Surveyors

Wessex House, High Street, Gillingham, Dorset SP8 4AG

Tel: 01747 823232 Fax: 01747 825363

blp@brimblelea.com www.brimblelea.com

AFGB/JK/08079

21<sup>st</sup> March 2014

Andrew Bidwell  
Development Manager  
Wiltshire Council  
County Hall  
Bythesea Road  
Trowbridge  
Wiltshire BA14 8JN

Our Ref.  
Your Ref.

*Sent by email only:* [Andrew.Bidwell@wiltshire.gov.uk](mailto:Andrew.Bidwell@wiltshire.gov.uk)

Dear Andrew,

**Re: Change of Use to HGV Trailer Storage, form new vehicular and pedestrian access to land at Long Cross, Zeals, Warminster BA12 6LJ – Application No: 13/05423/FUL – Boyes Transport Limited**

The above Application was registered by your Authority on the 1<sup>st</sup> November 2013. I subsequently attended a meeting of the Zeals Parish Council together with my clients and made oral Representations as did the Applicants and many people living in the Village who were supportive of the proposals.

I have also considered the responses you have received from three Statutory Consultees being:-

- 1) The Zeals Parish Council
- 2) Richard Burden on behalf of the AONB Authority
- 3) An email from Roger Witt – Highways Development Control Manager Sustainable Transport, Wiltshire Council dated 29<sup>th</sup> November 2013.

I now set out my Representations in respect of the responses listed above.

### **The Zeal's Parish Council**

**Letter from John Wigg 21.11.13 (Using same numbering as contained in his letter)**

Attached is my File Note of the discussions that took place at the Zeals Parish Council dated 20<sup>th</sup> November 2013 together with a copy of my appendices 1, 2 and 3 referred to. Whilst this is not a verbatim transcript it sets out in essence the discussions that took place at the Parish Council Meeting.

Mr John Wigg the Chairman of the Zeals Parish Council Planning Committee wrote on the 21<sup>st</sup> November 2013 (copy attached). He stated in paragraph 2 "*Granting permanent permission for the storage of trailers on the adjoining site would be wholly inconsistent and incompatible on safety grounds for children and parents many of whom have to walk past the proposed lorry entrance on foot*".

Your Highway's expert, Roger Witt, has raised no objection to the proposal in the full knowledge of the limited traffic that will be generated by the development and that the Nursery School is up and running.

A.F.G. Brimble, Planning Consultant. J.L. Lea, B.Arch.(Hons.), RIBA.

Mrs J. Montgomery, B.Sc(Hons.), MRICS, MRTPI. P.D.M. Carpendale, MA, Dip.(Arch.Cons.), MRTPI, IHBC.

Mr Wigg in his statement also refers to children and parents many of whom have to walk past the proposed lorry entrance on foot, I do not believe that to be the case. I had a traffic survey carried on Wednesday 3<sup>rd</sup> December 2013, a copy of which is attached. The time of the survey was from 7.43am until 9.15am and from 11.44am to 13.16pm the date being Wednesday 3<sup>rd</sup> December 2013.

You will see that no pedestrians at all walked along the footpath into the Nursery School during that period. There were 32 vehicles into the site during the morning and 25 vehicles left. During the second period 16 vehicles entered the site and 15 vehicles left.

1. Reference is made to various policies contained within the Wiltshire Core Strategy. Those policies are set out correctly but the same policies applied when the Planning Permission was granted for the Nursery School.
2. It is incorrect to say that the land has been used exclusively for agricultural purposes it has not. It has been vacant for many years.
3. The Inspector who determined the latest Appeal confirmed that the good access to the east of the site onto the A303 was unlikely to result in much traffic from the site travelling west and also found that the visibility splays at the site access and the distance from the site of the houses should not present unacceptable harm for the residents from noise, disturbance or pollution. It is proposed that there be 15 HGV trailers and not 16 as stated.
4. The Parish Council concedes that the terms of the proposed Section 106 Agreement would provide some reassurance.
5. As already stated in addressing point 3 no unacceptable noise or disturbance would be caused by the proposals.
6. If the Planning Committee resolve to approve this Application a Section 106 Agreement would be entered into requiring the Applicants to use best endeavours to ensure that all traffic leaving or departing the site will travel in an easterly direction thus not using the Village roads.
7. To say that the Local Community will receive no economic benefit from the Application whatsoever lacks any credibility. Boyes provides transport in this area and the livelihood of 29 families rely upon this Application being approved. There is considerable economic benefit to the Local Community.
8. I have discussed with my clients whether all of the containers will be empty on every occasion. I have been advised that 99.9% of the time the containers would be empty. There may be a very occasional occurrence when goods would be within the container, but I stress that is highly unlikely.
9. Mr Wigg in his letter dated 21<sup>st</sup> November 2013 stated that security lighting would be required. At the Parish Council Meeting we made it clear to those present that there would be no security lighting required. The statement again lacks credibility being factually incorrect.
10. We have been able to provide you with evidence of the sequential site search which has been made. There is no other site suitable or available in the area.

The fact that the Nursery School provides good rental income to the Parish is not a planning consideration.

1. Accepted.
2. The proposed trailer park would have no impact at all upon the School business.



3. The proposed trailer park was supported, people spoke at the Parish Council Meeting and by letters of support received from local people.
4. It is accepted that the Planning Permission for the School has a five year limit, it is highly unlikely however Wiltshire Council would look to have the School closed after that period.
5. Please see the traffic survey carried out confirming that no parents walked children to the Nursery School on foot.

I am therefore able to refute the objections made by the Parish Council.

**Richard Burden from the AONB Authority**  
**Email letter dated 27<sup>th</sup> November 2013 (copy attached)**

Mr Burden states that an Environmental Impact Assessment could be required taking into account the Environmental Impact Assessment Regulations. For reasons best known to himself Mr Burden has not referred you to the letter from the Planning Inspectorate to the Wiltshire Council dated 25<sup>th</sup> November 2010 in connection with the previous Appeal when the Planning Inspectorate confirmed that the development would not have any significant affect upon the environment by virtue of factors such as its nature, size or location and that the development was not IA development.

Mr Burden then refers to the consent for the Nursery School saying that a Community School is significantly different from an industrial use. With respect, what Mr Burden should be considering is the visual impact. In any event, he is incorrect in assessing the proposal to be an industrial use it is purely for the storage of overnight HGV Trailers.

He then refers to the "Pill Box" identified on the existing site plan. He does not however say that the Pill Box is outside of the area where it is proposed to store the trailers but is within the proposed landscaping area and partly outside of the Application Site.

He refers to the earlier Landscape and Visual Impact Assessment and is of the opinion that Peter Swan & Associates' Report underestimates the landscape and visual impacts of the proposal.

Attached are photographs of the Application Site and the Nursery Site adjoining both taken from the road immediately adjacent. There can, in my opinion, be no doubt that the Nursery Site is far more prominent than the Application Site which would be totally screened by the landscaping scheme proposed by Richard Payne of Peter Swan & Associates.

Again he refers to the introduction of "*this industrial use*" which I refute. In my opinion the Application Site is highly sustainable bearing in mind the relationship of the proposed HGV Trailers with the A303 Truck Road accesses almost immediately adjacent.

3. **The Highways Authority Recommendation**

That there is no Highway objection to this Application. Roger Witt the Highway Development Control Manager stated that "*I am satisfied that the traffic generated by this proposal will not cause undue problems on the adjoining highway. A new access is proposed and it will be necessary for the existing access to be stopped up upon completion of this and this can be covered by suitable condition, adequate visibility is available at the proposed access*".

The recommendation of Mr Witt from the Highway Department of the Wiltshire Council is an extremely important material consideration in the determination of this Application.

There is no evidence whatsoever that the proposal will cause any danger or inconvenience to other road users.

**Rebuttal Statement of objections made by local people**

I have read letters from 11 addresses and it is clear that the gist of the objections are; highway safety, visual impact on the AONB and personal vitriolic comments made by some local people.

Many of the objections are gross overstatements using words such as "a succession of HGVs thundering in and out".

The objectors have no evidence to suggest that there are suitable alternative sites in the vicinity. My clients have investigated a sequential search to no avail.

There are statements that parents from Zeals walk daily from the Village to the Nursery School. The traffic survey that I have had carried out demonstrates that theory is unfounded. During the day the survey was carried out not a single pedestrian used the Nursery School.

Reference is made to there being no benefit to the local economy. This is a statement that lacks any credibility. The Applicant's business provides transport throughout the Country which is essential and additionally 23 families livelihood depend upon the outcome of this Application.

There has been supporting letters from local business men who use Boyes Transport on a regular basis.

Reference is made to lorry drivers taking the quickest route or following their SatNavs which take them through the Villages of Zeals and Bourton. Again this statement lacks credibility, the only drivers who will be using the Application Site are those who are employed by Boyes and where it is has been made clear that all access will be to the east not using the Village Roads.

**Letters in support**

I have read and attach letters of support as follows:-

Intowaste Limited, Mr J Lyons, Mr D Downes, A Chant, E Murray, Sarah Boyes (from Boyes Transport Ltd), A Selby, ATS Euromaster, G Northover & Sons Ltd, Driving Force Training, Nicola Boyes (Applicant's daughter), a Petition signed Doddington, Emma Bevan, Margaret Francis, Robinson, Graham Williams, Occupants of Trehelig, M Sutton, Alin Sebly, David Downes, E Murray, D Pannell, J Greenway, M Lissabury, S Schofield, V Morse, E Love, J Antorne and Grandstands Worldwide Ltd all supportive.

Attached is an email from Colette Mallon 5<sup>th</sup> March 2014 Senior Development Officer, Economy and regeneration, Wiltshire Council. The contents of this email fully supports the proposal, the subject of this Application. Colette Mallon is aware of the relevant policies contained in the Wiltshire Core Strategy, is aware of the details of the proposals and aware of the location of the site immediately adjacent to the A303 Truck Road.

She understands and supports the essential need for job creation in Wiltshire. Her support is an extremely important material consideration in the determination of this Application.

I wrote to you on the 25<sup>th</sup> October 2013 when I set out in some detail the reasons why I consider this Application should be approved. Would you be good enough to ensure that this letter and its contents are attached to your Report to be put before the Planning Committee?



Would you also please ensure that a copy of my Design & Access Statement is attached so that Members are able to read a case put on behalf of the Applicant.

I would also refer to the landscape character and visual implications of the planning submission prepared by Richard Payne of Peter Swann & Associates, Chartered Landscape Architects dated October 2013. In his summary and conclusion he found that the proposals will have a visual and landscape character terms slight significance. He stated that it is a small site set apart from these areas situated on the extreme southern edge of the AONB and close to a major transport corridor. In conclusion, once the proposed planting begins to provide additional screening the potential impact both visually and on the character of the area will be diminished and need to be balanced against the need for a sustainable business at this location.

The area of the Application Site has been reduced significantly extending to approximately 0.6ha (1.5 acres).

**Email correspondence between John Wigg, Trinity Cottage, Zeals and Other Residents together with emails sent by John Wigg 21.11.2013 in his capacity as Vice Chair to Zeals Parish Council to Fred Westmoreland (believed to be a member of Wiltshire Council)**

It is of course up to Members of a Local Authority as to how its business is conducted.

I consider however the contents of John Wigg's email dated 6<sup>th</sup> January 2014 to be totally inappropriate. To add the words "*since our last meeting Peter Clarke has put in a lot of work and unearthed some "good stuff" more of this when we meet. Also David Corbin is hoping to get Counsels Opinion for us for this meeting*".

The next email to which I refer is dated 21<sup>st</sup> November 2013 where Mr Wigg suggest that the "*letter of objection to the planners*" should be redrafted and "*forwarded to all receptive villagers in Zeals and the environs*"

He states that Zeals is a small quiet village and that "*it's character will be ruined for ever by the intrusion of this company. There must be many suitable sites in industrial areas and business parks specifically designed for the purposes that Boyes Transport intends*" He also considers the potential threat to the future of Leaping Frogs Nursery as another key issue.

I have been able to totally refute these allegations made by Mr Wigg to many local residents.

The next email to which I refer is also dated 21<sup>st</sup> November 2013. This confirms that Fred Westmoreland chairs the Planning Committee for this area.

The email from Mr Wigg to Mr Westmoreland is, in my opinion, again totally in appropriate inaccurate as is evidenced by my rebuttal statement.

The email to Councillor Westmoreland is seeking to influence an elected representative of the Wiltshire Council and whilst I am sure that Councillor Westmoreland will not allow that to happen, it clearly demonstrates the lengths that the objectors are going to, to try and have this Application refused, all of which I consider to be totally inappropriate and improper.

I spoke to Mr brother-in-law a few days ago, who lives in Zeals, and he told me that he has been approached by a representative from the Parish Council who knocked on his door and was insistent that my brother-in-law should write to the Planning Authority objecting to the Application by Boyes Transport.

My brother-in-law said that he knew the site, knew what was proposed and had no problem with it. Again it demonstrates the orchestrated manner in which the Parish Council is behaving.

I trust that the contents of this email is sufficient to enable you now to complete your Report to be put before the Planning Committee of the Wiltshire Council. If however there is anything further that you need please let me know.

Yours sincerely,

Brimble, Lea + Partners.

Mr AFG Brimble  
**Brimble, Lea & Partners**  
[Tony@Brimblelea.com](mailto:Tony@Brimblelea.com)

## Appendix 5 – Letter from Barrister

### **Regarding the Boyes Transport, Zeals - Planning application 13/05423/FU for a Lorry Trailer Park:**

The points to be considered are:

1.
  - a. There is a requirement for Boyes to show a significant change of circumstances, requiring the extraordinary step of setting aside two Inspectors decisions.
  - b. The school consent is not such a change in circumstances. It is site specific in that it is, by definition, serving the immediate locality and there is no other site available, as in the planning decision.
  - c. In contrast a haulage depot is wholly contrary to the AONB principles and ethos. It would have to be exceptional circumstances and the schools consent cannot amount to that. The school is its own exceptional circumstances – you cannot have a trend of exceptional circumstances, because of course they are not then exceptional.
  - d. The difference between the school and the depot is that the school has to be local to serve the children, whereas the haulage interest can be served anywhere within say 50 miles, on an appropriate location such as an industrial estate.
  - e. The only justification appears to be ownership by the proposed developer. That is nothing like good enough.
  
2. There is nothing in the material which gainsays the Inspectors approach in 2009, which states that:
  - a. The application is a “Fundamental and wholesale adverse change to rural appearance” (2009 decision para 4). The 2013 ANOB report confirms this.
  - b. The attempted mitigation by planting is not good enough (ibid para 5). For the avoidance of doubt, the smaller site makes no difference.
  
3. The Design and Access statement claims this is part of the rural economy.
  - a. The empty container park is in no way relevant to the Zeals economy.
  - b. The Company is a transportable use which does not depend on close proximity to Zeals agriculture or other matter to function.
  - c. To claim some form of special need, Boyes should have set out their search that has failed. This would include parameters of search – size, location requirements in transportation terms (further afield may be nearer their market), financing, details of agents instructed for search, details of sites rejected and why, etc.

4. On the basis of these facts and legal considerations the Boyes Application has no case. Whilst Zeals Parish Council and Leaping Frogs Kindergarten can make further representations, which have already been notified to the Planning Officers, it would seem entirely proper to stop the Application before going any further.