
Appeal Decisions

Site visits made on 7 & 8 July 2015

by Mr JP Sargent BA(Hons) MA MRTPI

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

Decision date: 24 September 2015

Appeal A: APP/Z1585/W/14/3000681

Land to the south of Terminus Drive, Pitsea South East, Basildon SS16 4UH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr J Heard of Heard Environmental against the decision of Essex County Council.
 - The application Ref ESS/69/12/BAS, dated 16 November 2012, was refused by notice dated 1 October 2014.
 - The development proposed is the change of use of land and the erection of buildings, hardstanding, roadways, parking and storage areas to enable the use of the site as a waste recycling and materials recovery facility.
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Appeal B: APP/Z1585/C/14/3000689

Land to the south of Terminus Drive, Pitsea Hall Lane, Pitsea SS16 4UH

- The appeal is made under section 174 of the Act as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr J Heard of Heard Environmental against an enforcement notice issued by Essex County Council.
 - The notice was issued on 27 October 2014.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised erection of a building and associated lobby to the building in the approximate position marked with a cross on the plan attached to the notice.
 - The requirements of the notice are
 - i) Remove the building and the associated lobby to the building
 - ii) Remove from the land all materials arising from compliance with requirement (i) above.
 - The period for compliance with both requirement (i) and requirement (ii) is 6 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (g) of the Act as amended.
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Formal Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed on ground (g), and the enforcement notice is varied by the deletion of 6 months and the substitution of 12 months as the period for compliance with requirement (i) and requirement (ii) in paragraph 5. Subject to this variation the enforcement notice is upheld.

Procedural matters

3. As well as my formal site visit on 8 July, I also visited the area unaccompanied at dusk on 7 July.
4. Despite the differing addresses these 2 appeals concern the same site.
5. After my visit it became apparent that one of the site's land owners had not been notified of the application subject of Appeal A. However, the relevant certificates were duly served and that owner has chosen not to make any comments in response. As such, the appeal can now be determined.
6. Applications for costs were made by the Appellant against Essex County Council (ECC) in relation to these appeals, and they are the subject of separate decisions.

Appeal A

Main Issues

7. ECC refused planning permission for the works subject of Appeal A solely on the basis of the adverse effect of the waste processing building (the WP building) and its lobby on the setting of the Grade II listed Cromwell Manor. However, the representations from the owners of Cromwell Manor are broader than just the impact of the WP building and the lobby, and concern the effect of the entire operation on the setting of that building and the adverse impact that it may have on the use. Moreover, although ECC confirmed it has no concerns about the effect of the development on the setting of St Michael's Church, which again is Grade II listed, the effect on that building was nonetheless raised in the submissions and so for completeness should be addressed. As such, it is not for me to focus just on the specific concern of ECC, but rather I need to assess these other aspects as well as they are before me.
8. Therefore, I consider the main issues in this case to be
 - a) whether the principle of the use is acceptable in relation to policy;
 - b) the effect of the development on the setting and significance of the Grade II listed Cromwell Manor and the Grade II listed St Michael's Church;
 - c) whether other harm is caused and
 - d) if any harm is caused, whether that harm is outweighed by public benefits.

Background

9. The decision notice subject of Appeal A was ECC's third attempt to determine application ESS/69/12/BAS. In June 2013 a planning permission had been issued but a Judicial Review was then brought on behalf of the owners of Cromwell Manor and this decision was quashed. The application was then reconsidered in June 2014 when the relevant committee resolved to grant planning permission once more, subject to conditions. However, before that decision was issued a 'letter before claim' was sent on behalf of the owners of Cromwell Manor, detailing their intention to apply for a second Judicial Review. As a consequence, ECC did not issue that decision, but rather the matter went back to committee for a third time when it was resolved to refuse planning permission. That decision was duly issued.

Reasons

The principle of the use

10. The appeal concerns a long, thin site with an area of 1.24ha, which is between the line of Terminus Drive and a public footpath to the north and a railway to the south. It forms part of a larger triangle of land (the triangle) that is defined on 2 sides by railways and on the third by the flyover carrying the A13. Within the triangle much of the land is unused. However, at the eastern end is Pitsea Station and car park, while a fencing company is immediately to the east of the appeal site. Elsewhere there is also some parking. Vehicular access to the triangle is gained solely by Pitsea Hall Lane, which passes over the northern railway by means of a narrow bridge and crosses the railway to the south at a level crossing.
11. At the time of my visit the appeal site was being used for the storage and distribution of materials such as clean soils, hard core, timber and concrete, and these were chiefly to be recycled or reused. Overall, some 13,500 tonnes of material is being taken onto the site, but this falls well below the maximum proposed annual capacity of 49,000 tonnes. While the Appellant confirmed it is not intended to operate consistently at maximum capacity, there would be nothing before me to prevent that occurring and so I have to assess the scheme accordingly.
12. To service the operation a modular 2-storey office block is on site. The WP building has also been erected but is unused, while to the south of that is its partially built lobby. I was told that the lighting was now broadly in accordance with what was intended, but there was no appreciable landscaping. Indeed, the site layout, which does not accord with that on the submitted plans, does not allow landscaping in the areas shown, but the layout could be readily amended.
13. Access to the site is off Terminus Drive, which is an unmade road that also serves the neighbouring fencing company and will be the access to much of the rest of the triangle that lies to the north. This in turn connects up to Pitsea Hall Lane. The appeal site has a direct access to Pitsea Hall Lane as well at its extreme eastern end, but it is not intended to use this as it joins the lane immediately next to the level crossing.
14. In Basildon District Council's *Basildon District Local Plan* (BDLP), Policy BAS E2 identifies the site and other land within the triangle (amounting to some 3.5ha), as allocated for employment uses, subject to it being for Class B1 or B2 purposes¹ and addressing any traffic impact. BDLP Policy BAS E6 states that development for untidy industry will only be allowed in 2 designated industrial areas elsewhere in the district, and in other industrial areas (which presumably include land allocated for employment use) they will be assessed on their likely effects on nearby uses.
15. Turning to ECC's *Essex and Southend Waste Local Plan* (WLP) Policy W8A accepts waste management facilities will be permitted in the locations shown in Schedule 1 of that plan (Schedule 1 sites), of which the appeal site is not one. WLP Policy W8B says that waste management facilities will be permitted in other employment areas or areas allocated for general industrial use if all the

¹ Classes B1 and B2 of the *Town and Country Planning (Use Classes) Order 1987* (as amended)

criteria in WLP Policy W8A are met. Those criteria concern matters such as need, suitability, access, design and so on. However, WLP Policy W8B goes on to say that large scale waste management development of the order of 50,000 tonnes per annum capacity or more will not be permitted in non-identified locations unless the Schedule 1 sites are less suitable or not available.

Although the capacity of this site is to be 49,000 tonnes per annum, I consider that can be reasonably viewed as being '*of the order of 50,000 tonnes per annum*' and so this final clause of WLP Policy W8B is applicable.

16. WLP Policies W7D and W7E also accept inert waste recycling facilities and facilities for the collection and recovery of waste in locations other than Schedule 1 sites, subject to the terms of WLP Policy W8B. These policies though add nothing extra to WLP Policy W8B and so have not developed my reasoning further.
17. The use is sui generis and therefore it does not fall in Classes B1 or B2. As such, although it may be of a similar character to a Class B2 use it nonetheless conflicts with BDLP Policy BAS E2. However, under the BDLP it is fair to define the Appellant's scheme as an untidy use, and so while BDLP Policy BAS E6 focuses such industry elsewhere in the district it does not prevent it here, subject to its likely effects.
18. With regard to the WLP, ECC has accepted that in Essex there is a need for further recycling capacity and also that the Appellant has satisfactorily demonstrated Schedule 1 sites are unavailable or are inappropriately located. I have noted the owners of Cromwell Manor have challenged this point, but to my mind there is insufficient evidence to lead me to a different view. Consequently, I consider the scheme does not conflict with the final clause of WLP Policy W8B.
19. A conflict was also highlighted in connection with WLP Policy W10B in that details of lighting and landscaping were not submitted. That in itself need not challenge the principle of the use, and such matters of detail will be considered below with the other effects of the scheme.
20. Accordingly I conclude that the principle of the use does not conflict with the policies in the WLP. Furthermore, BDLP Policy BAS E6 does not raise objections to the principle of the use here though the works are in conflict with BDLP Policy BAS E2.

The effect on Cromwell Manor and St Michael's Church

21. To the south of the railway, opposite the eastern end of the appeal site, is the Grade II listed Cromwell Manor, which dates from about 1600. It was originally a large dwelling of appreciable status but is now used as a venue for functions and events. Although it has been much altered over time, its significance as a heritage asset is still apparent in aspects such as its arrangement, proportions and detailing. Indeed, to my mind the older alterations, which included changing the principal elevation from being on the north side to being on the south about 200 years ago, illustrate the historic evolution of the building and so contribute to an understanding of its use and to an appreciation of its special architectural and historic interest.
22. Originally Cromwell Manor would have stood in a relatively isolated location on a flat marshland landscape. To the north this setting has now been lost due to

the railway that runs immediately past the property and the urban environment that lies beyond. Similarly Pitsea Hall Lane greatly restricts the appreciation of this setting to the east and south-east.

23. However, from the south and south-west the property is seen over its grounds and the marshland, and so a strong sense remains of what its context would have been like before the arrival of the railway and the development to the north. As such, when looking out from Cromwell Manor and when looking from these directions back towards that building its original open setting can be appreciated. Moreover, from the south-west and the south the status of the property is still apparent as its arrangement, form and detailing can be readily perceived. Therefore, to my mind this setting contributes to its significance and understanding.
24. It was said by the Appellant that the significance of this setting has been diminished in 3 ways. Firstly he pointed to the various extensions and alterations that had taken place in and around Cromwell Manor. While the property has been recently extended at its western end, I consider this addition is of a suitably sensitive scale and design to mean the older part of the building remains apparent and dominant. As such it does not diminish its significance to any appreciable degree. There is also a sizeable marquee immediately to the west of the building, but that is unauthorised and so the weight I have afforded it in my assessment of the setting is limited. I understand that the name has been changed too from Pitsea Hall, but I see no reason why that should undermine its value as a heritage asset.
25. Secondly, he referred to the presence of Pitsea Hall Lane, which runs to the east of Cromwell Manor and carries a significant flow of up to 1,100 heavy lorry movements per day to and from a large landfill site, as well as also serving a civic amenities site, an industrial estate and a country park. This, he contended not only leads to a visual impact from the passing vehicles, but also issues of dust, noise and vibration that affect the tranquillity of Cromwell Manor. I am aware though that the boundary to Pitsea Hall Lane is well-screened, and although I was at Cromwell Manor for a while during my visit, I did not find the passing traffic to be intrusive either visually or in any other sense. Similarly the uses to the east of the lane were not apparent. Whilst I accept this situation may change in the winter months when the trees offer less of a visual barrier, I consider this would not be sufficient to lead me to different views about the effect of the lane on Cromwell Manor's setting.
26. Finally he drew attention to the strong urban environment that is immediately to the north. While there is an industrial building associated with the fencing business directly behind Cromwell Manor that is substantially concealed by the Manor when looking from the south and south-west. As a result it does not encroach into the appreciation of the setting from those directions. The rail infrastructure can be seen in those views, but the gantries are slender and intermittent and the trains are visible for relatively short periods. Furthermore, the A13 flyover with the traffic it carries is apparent, but that is some way back and again is not unduly intrusive either visually or in relation to noise generation. Therefore, while the area to the north has a distinctly urban character, to my mind this does not impact on the setting of Cromwell Manor to a harmful extent when seen from the south or south-west, and does not appreciably erode its significance.

27. St Michael's Church stands some 220m to the north-east of the appeal site on top of a tree-covered hill, and it is a prominent feature that is seen from a wide-ranging area. To my mind this is part of its special architectural and historic interest and reflects its significance as an important building that has had a dominant presence over the surroundings for very many years.

The visual effect of the WP building and lobby on the setting of Cromwell Manor

28. The WP building stands some 65.5m to the north-east of the westernmost part of the Cromwell Manor building. It is built of profiled steel and is about 11.4m high to ridge, and roughly 9m to eaves. Its southern elevation, which is the elevation that faces towards the railway and the Cromwell Manor grounds, is mainly open, and so to reduce noise and visual impact a lobby would be built. Although only partially constructed this would be of similar materials, and would allow lorries to access and leave the WP building from the west only². This lobby would be approximately 60.5m from Cromwell Manor.

29. The WP building cannot be seen when in Cromwell Manor facing southwards, and when viewed from the upper floors on the western elevation it is seen very much in the context of the urban land on the northern side of the railway. Moreover, when looking towards Cromwell Manor from the south-west the angles and the planting mean it does not encroach unduly into the setting of the listed building.

30. However, facing Cromwell Manor from its entrance drive or across its lawn to the south, I consider the WP building is clearly apparent as a dominant, large, industrial feature that rises up to the left. As such, it relates poorly to the character and nature of the Manor's open setting and undermines the appreciation of the context in which it was originally built. Moreover, on completion the lobby would reinforce this effect. As such when their heights and materials are taken into account I am of the opinion that they would be discordant elements within the context of Cromwell Manor that would erode its sense of isolation, thereby diminishing its setting and so harming the significance of this designated heritage asset.

31. I am aware that Cromwell Manor would be chosen as a function venue by its customers for a combination of reasons, and when they are making a choice I anticipate that other factors are probably afforded greater weight than the appearance of the building's wider setting. Given this, although the WP building and lobby could be seen, I cannot conclude that, in itself, would have a material effect on the attractiveness of the venue for functions and so would not adversely affect the viability of the business.

32. The threshold for substantial harm is high, and I consider the visual effect of the WP building and lobby would not be sufficient to compromise the listed status of Cromwell Manor. Therefore, the harm they would cause would be less than substantial, but this does not trivialise the harm, and under paragraph 132 of the *National Planning Policy Framework* (the Framework) it is still a level of harm to which considerable weight should be attached.

The effect on the setting of St Michael's Church

33. When looking towards St Michael's Church from the south-west over the Appellant's site the WP building is visible in the foreground. However, apart

² There would also be a door in the eastern elevation of the lobby but this would be for emergency use only.

from when very close to the WP building it does not obstruct these views and appears merely as part of the urban context within which the church is already seen. Therefore I conclude the development does not harm the setting of St Michael's Church, or its significance as a heritage asset.

The other effects of the waste transfer operations on Cromwell Manor

34. The owner of Cromwell Manor also contended that there would be further harm to the setting arising from matters such as dust, noise, lighting and vibration associated with the activity on the appeal site and the WP building, as well as a visual impact arising from the external storage of waste. It was said that the lighting and the mounds would detract from the setting of Cromwell Manor, while the unsightly effects of those elements together with the disturbance from noise, vibration, dust and lighting would reduce the attractiveness of the venue and so undermine the viability of the use. There could also be unacceptable noise for the occupiers of the flat at Cromwell Manor.
35. In assessing these aspects I have noted that the suggested conditions mean the use would not be operating on weekday evenings, on Saturday afternoons or on Sundays and Bank/Public Holidays, and those are times when one would expect Cromwell Manor to be mainly used. However Cromwell Manor could well be used at other times. Moreover, many bookings for weekend or evening events are no doubt taken following visits on weekdays when customers would make judgements about the suitability of the venue, and these aspects that have been raised by the owners of Cromwell Manor could well impact on those judgements. The flat too is of course occupied continually.
36. I have also noted that, on the one hand, the appeal site is not now operating to capacity and so could generate further noise, dust and so on as its activity increased. However, on the other hand it is unauthorised and so is not constrained by any restrictive conditions.
37. Turning to the specific concerns, there is a suggested condition that seeks to restrict the height of external storage to 4m. Given the distances involved, the intention to store material at the western end of the site and the presence of planting along the railway, the visual effect of this would not be unacceptable when seen from Cromwell Manor. Dust suppression methods could also be imposed that are common with waste transfer operations, and I have no reason to assume they would not be effective here.
38. With regard to the matter of light, I am aware of the requirements of WLP Policy W10B concerning the submission of lighting details. However, when I visited at dusk and looked back towards Pitsea from the footpath to the south-west of the appeal site, I noted that Cromwell Manor was already seen within the context of a significant amount of lighting especially on and around the flyover. I am also mindful that a condition has been suggested to restrict the location and use of fixed lighting. Therefore additional lighting associated with this site, if properly controlled by condition, need not be unsatisfactory.
39. The Appellant has contended that any noise would not exceed unacceptable limits on the external patio areas of Cromwell Manor that are used by guests, or in the rooms of that property where wedding ceremonies are held, especially once account was taken of the existing noisy uses around Cromwell Manor.

40. However, throughout my site visit I heard no appreciable noise from the fencing company or from traffic on Pitsea Hall Lane. Although Cromwell Manor is next to a railway that inevitably generates some noise, this tended to be used by slow-moving electric trains that passed intermittently and so the level of disturbance was not unreasonable. As such, Cromwell Manor does not appear to be in a particularly noisy location.
41. In relation to the effect of noise from the application site, the owners of Cromwell Manor disagreed with the Appellant's assessments and considered the noise generated would be higher. This would take it above the acceptable thresholds for the ceremony room, the attic flat and the patio area. Although the affidavits of staff at Cromwell Manor said '*you can hear the noise of machinery*' and '*noise from machinery is apparent*' those in themselves do not necessarily mean the relationship is unacceptable.
42. However, a review of the Appellant's noise survey was submitted on behalf of the owners of Cromwell Manor by an experienced acoustic consultant. His conclusions were that while the approach taken by the Appellant's consultant was generally sound, based on his own experience and what he considered to be equivalent figures in British Standards, the source values tended to be low. Consequently his estimates on the expected outcomes on noise are sufficient, in his opinion, to introduce uncertainty over the overall impact of the waste operations. He therefore advocated noise conditions be imposed if permission is to be granted, establishing maximum noise levels at certain points.
43. Mindful of this advice, the noise levels in the suggested conditions seem a reasonable response. As they have been offered by ECC presumably it considers them to be realistic. Moreover, despite the views of the consultant for Cromwell Manor, they have not been challenged by the Appellant so it is fair to assume he considers they would be achievable. Therefore, with a condition in place relating to noise levels I consider the use would not adversely affect the actual or perceived enjoyment of Cromwell Manor to an unacceptable degree.
44. Some concern was also raised about noise experienced within the marquee at Cromwell Manor. This though is an unauthorised structure that appears to have been put up recently with little in the way of sound proofing and was erected next to the railway. As such, the weight I have attached to these concerns is limited.
45. With regard to vibration, I am not satisfied this would be great enough to cause damage to the fabric of the listed building. Moreover, controlling the operations on the site and the equipment used with a condition means vibration need not be unacceptable for those using and living in Cromwell Manor.
46. In assessing these matters I appreciate that the use of the site has now been on-going for some time, yet I have no firm evidence from the owners of Cromwell Manor to show any effects on booking trends over that period. Moreover, the appeal site is allocated in the BDLP for employment uses in Classes B1 and B2. As a result, even if I had reservations about one or all of these elements in connection with the development, they could well arise to some degree whatever future use eventually occupies the site.

47. Therefore, I have noted the concerns about the actual and the perceived impacts of these various aspects on the setting Cromwell Manor and the consequent effects they could have on its trade and its viability as a function venue, and I conclude that the use would not cause harm in this regard. Furthermore, I also conclude that the use would not unreasonably affect the living conditions in the second floor flat.

Other harm

Living conditions

48. Blocks of flats are to the north-east on Chestnut Road and Waterville Drive. However, these are separated from the appeal site by the flyover, with its associated concrete structure and traffic noise, and by an area of the undeveloped employment land in the triangle. The grounds of the blocks also have dense planting along their rear boundaries. Taking these points with the fact that the appeal site is identified for uses within Classes B1 and B2, I conclude the effect of the development on the living conditions of those residents is not unreasonable.

Traffic

49. A condition could require the section of Terminus Drive between the gate into the Appellant's site and Pitsea Hall Lane to be made up to a suitable standard.
50. All traffic arriving at or leaving the site must either pass over the narrow bridge on Pitsea Hall Lane, or must use the level crossing. However, given the amount of traffic on the lane I am not satisfied that this development would result in a material increase. This is especially so as no doubt some traffic from the Appellant's former yard passed over the bridge and crossing on the way to the landfill site in any event.
51. The supporting text to BDLP Policy BAS E2 notes that the bridge cannot be widened and so needs complete reconstruction, and it says that the developer of the employment allocation within this triangle of land between the flyover and the railways may be required to make a contribution. No such contribution has been sought in this case and I have no basis to consider otherwise.
52. Consequently I am not satisfied that the effect on the highway network is a reason to resist the development.

Effect on the wider landscape and the right of way

53. The supporting text to BDLP Policy BAS E2 says that extensive landscaping should be provided on the land within the triangle allocated for employment purposes, so as to soften the visual impact on the surroundings areas and particularly Pitsea Marshes to the south-west.
54. The site layout plan shows no landscaping along the southern side of the site. However, mindful of the proposed height restrictions, the effect of the railway, the generally urban nature of the landscape and the planting on the southern side of the railway, the absence of this planting would not cause harm to the character or appearance of the landscape beyond. Moreover, as the site is tucked away I consider it would not adversely affect the junction of Pitsea with the rural environment and the country park to the south.

55. A public footpath runs from Pitsea Hall Lane along the northern and western boundaries of the site to a pedestrian crossing over the railway. As that footpath passes through an area allocated for employment purposes its character is bound to change if and when the area is developed. In any event, except for when behind the WP building a 5m planting strip is proposed in the appeal site adjacent to these boundaries, and this would be a suitable response to this right of way. It is noted that this area for landscaping is not now present and would require the relocation of various barriers and walls.

Ecology and flooding

56. Having regard to the submitted surveys and the responses of the various statutory consultees, I have no reason to consider that any effect on these aspects could not be adequately addressed by condition.

Wider environmental concerns

57. Local residents raised concerns about dust, pollution, fumes, vermin and odour. However, mindful of the allocation and the fact that the use of the site would not involve putrescible material, again I consider conditions can adequately address each of these matters.

Benefits to be weighed against the harm

58. I have identified harm, albeit less than substantial, to the setting of Cromwell Manor. Paragraph 132 in the Framework says great weight should be given to the conservation of a designated heritage asset, and as assets are irreplaceable any harm (presumably whether it be substantial or less than substantial) requires clear and convincing justification. In paragraph 134 it goes on to state that where a development would lead to less than substantial harm to the significance of such an asset that harm should be weighed against the proposal's public benefits. Therefore, a balance has to be made between the harm on the one hand and public benefits on the other.

59. I have also found the scheme is in conflict with BDLP Policy BAS E2, in that the use does not fall in Use Classes B1 or B2. Moreover, as it would adversely affect the adjacent listed building there would be a conflict with BDLP Policy BAS E6 as that states untidy industry will be considered on its likely effect on nearby uses³. However, developments must be determined in accordance with the development plan '*unless material considerations indicate otherwise*'⁴.

60. To outweigh the less than substantial harm to Cromwell Manor, and also justify a decision contrary to BDLP Policies BAS E2 and BAS E6, the Appellant has highlighted the economic effects of the development, contending the building is needed for the operation of the site and the company currently employs 40 people. Moreover, he notes that the application process has been particularly expensive and protracted due to the errors of ECC, and he is aware that viability arguments are clearly valid concerns as they have been put forward by the owners of Cromwell Manor in support of their position. He has stated too

³ I appreciate that BDLP Policy BAS E6 specifically concerns the impact on nearby 'uses' and no such impact has been identified. Mindful of the supporting text in paragraph 6.14 I consider that harm to the setting of a listed building can be reasonably interpreted to be contrary to that policy. However, if that is not in fact the case it would have no material effect on my reasoning or findings as this relates to the same concern as that which is addressed by paragraphs 132 and 134 of the Framework.

⁴ Section 38(6) *Planning and Compulsory Purchase Act 2004*

that the land is designated for employment purposes, and so such a balancing exercise is inevitable however the site is developed.

61. Starting first with the allocation, future employment uses on the land could fall in Classes B1 or B2 and so would not be in conflict with BDLP Policy BAS E2. Furthermore, while the site will quite probably be used for employment purposes in the future that does not necessarily mean a building of this size and appearance would be in this location. Rather, any building required could be smaller, could be of a design more sympathetic to Cromwell Manor, or could be positioned in a less intrusive location. Therefore, even given the designation of the site the level of harm caused would not be inevitable.
62. Turning to the costs of the process, any errors made by ECC and the circumstances surrounding the erection of the building, they do not have a bearing on the planning merits of the case before me.
63. Finally, the Government places great weight in the Framework and elsewhere on economic and employment growth, but that does not necessarily over-ride the need to conserve heritage assets. As stated above, the proximity of Cromwell Manor need not prevent Class B1 or Class B2 uses on the land, and I have no basis to show a relationship similar to that between the WP building and Cromwell Manor would be inevitable if the appeal site is used for employment purposes. I note as well that ECC has acknowledged a need for the facilities offered by the site and I appreciate the environmental benefits from the activities undertaken there. However, the business is operating, to some degree, without using the WP building. Moreover, whilst Schedule 1 sites or the industrial estate on which the Appellant's former yard is located may not be able to accommodate such a use, I am not satisfied that the evidence before me shows there is no potential provision elsewhere, and there may well be other sites that can similarly address this need without the identified harm. In any event, the Appellant has accepted that a dismissal of these appeals need not necessarily result in the business ceasing but may lead to its relocation. Consequently, I consider the weight in favour of economic development, employment and the provision of these facilities is not sufficient to outweigh the harm to the setting of the listed building, or justify a decision contrary to the development plan.
64. In coming to this view I accept that viability was mentioned by the owners of Cromwell Manor in their representations. That though was a slightly different matter to one that the Appellant could raise, as it concerned the need to secure funding to maintain the Grade II listed building for the benefit of the public.
65. Therefore, having considered the benefits cited by the Appellant I have found that there is not a clear and convincing justification for the harm to the designated heritage asset. As a result, the benefits offered by the development, even if taken together, do not outweigh that harm, and do not constitute a material consideration sufficient to justify the scheme in the light of a conflict with the development plan.

Conclusions

66. Accordingly I conclude the WP building with its lobby would cause less than substantial harm to the setting of the Grade II listed Cromwell Manor, and no other considerations or public benefits have been identified that would outweigh this harm. As a result I conclude the development would be contrary

to BDLP Policies BAS E2 and BAS E6 and the Framework, and would conflict with the BDLP and the Framework when taken as a whole. Therefore Appeal A should be dismissed.

Appeal B

67. This appeal is made on the basis that it is unreasonable to require the removal of the WP building and its debris in the same timescale. It also notes that a new site would have to be found and that could take up to 2 years, and so a revised period of 24 months is suggested.
68. It is not inappropriate for the same period being given to remove both the building and its debris. I am also aware that the notice does not address the waste transfer operations but rather relates to just the WP building and lobby, and that the site appears to have been functioning to some degree without using that building. I nonetheless accept that the WP building was intended to be a key part of the operations, and so relocating could well be necessary for the Appellant.
69. Given the scale of the harm I have identified, I consider that allowing a 24 month period of compliance would be unacceptable as it would undermine the expediency for taking action. However, mindful of the possible need for a relocation longer than 6 months is required. I therefore consider a period of 12 months should be allowed to comply with the notice.

J P Sargent

INSPECTOR