



Appeal Decision

Site visit made on 14 April 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/N2535/W/22/3309912

Land adjacent to Mount Pleasant House, South Lane, Middle Rasen, Market Rasen, Lincolnshire LN8 3LG

- 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 Mr George Coopland (Fieldview Trailers) against the decision of West Lindsey District Council.
 - The application Ref 144733, dated 5 April 2022, was refused by notice dated 14 June 2022.
 - The development proposed is change of use of an agricultural building to a workshop (Class B2).
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Decision

1. The appeal is allowed and planning permission is granted for part change of use of an agricultural building to a workshop (Class B2), at Land adjacent to Mount Pleasant House, South Lane, Middle Rasen, Market Rasen, Lincolnshire LN8 3LG in accordance with the terms of the application, Ref 144733, dated 5 April 2022 and subject to the conditions set out in the attached schedule.

Background and Main Issues

2. The description of development on the application form implied a change of use of a whole building. However, what is in fact sought is the partial change of use of some 250sqm of the building at its eastern end from agricultural to a trailer repair business. The planning history indicates two prior notifications under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) have resulted in the change of use of 148sqm to the western end of the building from agricultural to the sale and display of goods (Class A1) and the change of use of 200sqm within the central section to storage and distribution (Class B8).
3. The application was made on a retrospective basis, and I saw on site that the part of the agricultural building which is the subject of the proposal was in use as a workshop/repair area for agricultural and other trailers. The other parts of the building were largely in use in accordance with the aforementioned changes of use, though none of the spaces are fully physically separate and they appeared to form constituent parts of a single business operating within the building. I have approached the appeal on the basis that it seeks to retain the use as implemented on site.
4. Having regard to this background, the main issues are i) whether the change of use represents a suitable form of development within the countryside, and ii) the effect of the change of use on the living conditions of neighbouring occupants, with respect to noise and disturbance.

Reasons

Development in the countryside

5. The development plan for the area is the Central Lincolnshire Local Plan (April 2017) (the CLLP). The Council is currently preparing the Draft Central Lincolnshire Local Plan, but I note it is still at a stage where any objections have not been fully resolved and may yet be subject to change. Therefore, I afford limited weight to the policies of the draft local plan and have determined the appeal principally against the adopted policies of the CLLP.
6. Policy LP5 of the CLLP concerns the delivery of economic prosperity and job growth. The site is not located within an allocated employment site. The Council has consequently assessed the proposal under the 'Other Employment Proposals' (OEP) section of the policy, which requires it to be demonstrated that there are no other suitable sites or buildings within allocated sites or the built-up area of the settlement, among other criteria relating to the character of the area, compatibility with neighbouring uses, the viability of allocated employment sites and maximising modal shifts away from the private car.
7. However, the appellant argues that the proposal should instead be considered under the 'Expansion of Existing Businesses' (EEB) section of Policy LP5. This section does not require an assessment of whether other suitable sites are available but focuses on the impacts of the proposal on the character and appearance of the area, neighbouring land uses and the highway network.
8. The existing business on the site comprises trailer sales and storage, with the workshop/repair aspect of the operation specifically sought under this appeal. From the evidence before me, and supported by my observations on site, the repair service is an integral part of the overall business, being as much a part of it as the sales and storage elements. Those elements have also been established through the previous prior approval schemes. Therefore, notwithstanding the Council's view that the business does not need to locate in the countryside, it already is located there. On this basis, I am satisfied that the appeal scheme relates to the expansion of an existing business, and thus the EEB section of Policy LP5 is relevant to the proposal.
9. Moreover, the supporting text states at Paragraph 3.5.7 that "*In Central Lincolnshire's sparsely populated rural hinterlands [...] some types of businesses [...] are quite naturally located in the countryside [...]. This kind of development is not exceptional and needs to be accommodated in the Local Plan. The latter part of the policy does this.*" Given this, I am not persuaded that the OEP section of Policy LP5 should also be applied in this case, as this would effectively require an established business to undertake a sequential test to demonstrate there are no better sites available. This would logically be applicable to new proposals not already tied to a particular location, but if applied to existing businesses would undermine the approach set out in the supporting text and the EEB section, particularly where it seeks the re-use of existing buildings where possible.
10. Turning to the specific criteria of the EEB section, the appeal scheme meets the first criterion as it is contained within the existing building on the site. The Council is also satisfied that there would be no adverse effect on the character and appearance of the area, as no external works are proposed. I see no reason to disagree on this point and thus the fourth criterion is met.

11. In terms of highway impacts, the evidence suggests the proposal would generate around 6.7 light commercial/private car trips per day. Although the site is accessed via a single track lane, which serves a number of other properties, there is clear visibility along the full length of the lane to the main A631 road, and very limited traffic in general. The condition of the lane has been raised in correspondence, but I did not observe it to be in such a poor condition as to be unable to accommodate the modest level of additional traffic expected. There is also parking space available to the forecourt of the appeal building and directly opposite to accommodate vehicles arriving at the site. Overall, I have no reasons to find differently to the Council in this matter, whose conclusions also reflected those of Lincolnshire County Council as the local highway authority. I address other matters relating to parking below.
12. The remaining requirement under the EEB section of Policy LP5 is that the proposal does not conflict with neighbouring land uses. I address this below as a separate main issue in respect of neighbours' living conditions, but otherwise the proposal would accord with the aims of Policy LP5 to support proposals which assist in the delivery of economic prosperity and job growth to the area.
13. The Council also cited conflict with Policy LP55, specifically Part E which relates to non-residential development in the countryside. The appeal scheme would accord with criterion (a) of the policy as the rural location of the enterprise is justified by means of proximity to an existing established business. For reasons already set out, there would be no harm arising in respect of accessibility, and therefore no conflict with criterion (b). The scale of the use is small, confined to one part of an agricultural building with work indicated to be limited to two trailers at any one time. The business is also related to the wider rural economy in that it serves customers involved in agricultural and equestrian activities. As such, there is no conflict with criterion (d) of the policy. The final criterion, (c), relates to conflict with neighbouring uses and is addressed below.

Neighbours' Living Conditions

14. The nearest dwelling is Croft House, adjacent to the appeal building at a distance of some 11.7 metres. The Council's concern relates to noise generated by activities associated with the repairing of trailers, such as the use of power tools and compressors, and impact noise associated with bodywork repairs, including hammering and sanding. The Council also refers to fumes and smells from these activities. I have also had regard to the comments of the occupants of this property raising concern over the ongoing use of the premises causing noise and light pollution, alongside inconvenience from parked cars, trailers and trucks along the lane.
15. The appeal building has solid exterior walls to all sides, with the only major opening being the door to the front elevation. I saw that apart from a number of small rooflights, there are no windows to the building. It is also implausible that the main door would be left open and the lights on at night given the value of stock and machinery housed within. Therefore, I am not persuaded that the building is, or would be, a source of disruptive light pollution for neighbours.
16. The appellant has provided a noise impact assessment (NIA) which assessed background noise conditions and the impact noise of specific power tools being operated on the premises, including with the doors open. The NIA concludes that noise from the business, including corrections for impulsivity and intermittency of noise, does not exceed the lowest background noise level

measured at a receptor adjacent to the neighbouring dwelling. This equates to a 'no observed effect level' having regard to the noise exposure hierarchy of the Noise Policy Statement for England (NPSE) as referred to in the National Planning Policy Framework (the Framework) and Planning Practice Guidance. It is also stated that the activities on site do not generate fumes or odours.

17. The comments of the neighbouring residents indicate persistent evening operation of the business and machinery being left on creating constant noise. I note comments from the neighbouring resident in respect of effects on the health of family members as a result. The appellant disputes that noise and disturbance is occurring, pointing to the need to ensure machinery is switched off for fire safety and energy efficiency. Ultimately, I have no clear evidence of the extent or frequency of disturbances alleged by the neighbouring residents, but there is logic to the appellant's point in that leaving machinery on overnight would represent unnecessary energy use and pose a potential hazard should it malfunction with no-one present to switch it off.
18. I also note that the Council's environmental protection officer recommended conditions to mitigate outstanding potential sources of noise and disturbance, including hours of operation. To my mind, such conditions would help to address the concerns of the neighbouring residents by precluding operations into the evening and reducing the risk of occurrences such as those described.
19. I have limited evidence before me to substantiate the claims regarding disruption caused by indiscriminate parking of vehicles along the lane. At my visit, I saw the area opposite the building demarked as a parking area for the wider business, which had capacity for around four vehicles or trailers. Beyond that, there is an area of hardstanding to the front of the building where vehicles could be parked off the carriageway. I saw no evidence of excessive numbers of vehicles or other dwellings being blocked, although I accept my visit was but a brief snapshot in time. I did however see vehicles which appeared to be associated with an adjacent equestrian use, which is likely to add to the overall number of vehicles in the vicinity at certain times.
20. However, looking at the appeal scheme itself, the scale of the operation is small. The limits of the building's floorspace also reduce the likelihood of the business expanding its operations to a level that would create significantly more noise or traffic. The Council has also suggested conditions which would help to manage the level of activity taking place outside of the building on the lane and reduce the risk of disturbance to neighbouring occupants.
21. Taking an overall view, therefore, having regard to the evidence before me and having viewed the site and the extent of the workshop area, I have no reasons to doubt the conclusions of the appellant's NIA. Nor is there substantive evidence that the operation gives rise to harmful fumes or odours, or that the level of traffic and parking on site are or would be at such a level as to cause noticeable disruption to neighbouring occupants. Subject to the conditions mentioned relating to the hours of operation and the use of external areas around the building, the use is capable of operating without causing significant harm to the living conditions of neighbouring occupants.
22. For these reasons, I find no conflict with Policy LP26 of the CLLP, which requires that the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be unduly harmed by or as a result of development. Given my conclusions on this

issue, the proposal would also accord with the outstanding criteria of Policies LP5 and LP55 in relation to compatibility with neighbouring uses. The appeal scheme would also comply with the related aims of the Framework.

Other Matter

23. The planning history and intentions of the appellant have been raised by an interested party. Where the trailer repair use was refused under a prior approval application, this appears to have been due to the Council's interpretation that the proposed activity fell outside the scope of the relevant permitted development class. However, this does not set a precedent for a later application for planning permission, which the appellant was entitled to make and have considered on its own planning merits.

Conditions

24. I have considered the Council's suggested conditions against the relevant tests of the Framework. As the application was made retrospectively, there is no need for a time limit condition. However, to provide certainty, in particular in defining the area of the building to which the permission relates, a condition setting out the approved plans is necessary.

25. The Council seeks a condition requiring further investigation of soundproofing improvements to the workshop, on foot of a recommendation by the Council's environmental protection officer. However, the parameters of this condition are vague, with no detail as to a threshold of soundproofing that would be required. Moreover, given the results of the appellant's NIA indicated noise would not be audible above background noise from the nearest receptor, it is not clear on what basis further soundproofing is being sought. In my view, this condition is not sufficiently precise or necessary to make the proposal acceptable in planning terms, and I will not impose it.

26. However, other suggested conditions relating to hours of operation, keeping doors closed except for access, not undertaking repairs externally and maintaining noise attenuated reversing alarms on forklift vehicles are all necessary to safeguard the living conditions of neighbouring occupants.

27. Finally, it is necessary to require that the approved use only be undertaken in accordance with the existing business occupying the remainder of the building, to prevent use of the internal floorspace for a different or separate B2 use that may give rise to unforeseen impacts in respect of living conditions, highway safety and the viability of the existing business. The appellant had suggested such a condition in his statement of case.

Conclusion

28. For these reasons, I conclude that the appeal scheme accords with the development plan, taken as a whole, and material considerations do not indicate that permission should nevertheless be withheld. Therefore, the appeal should be allowed subject to the conditions set out in the attached schedule.

K. Savage

INSPECTOR

SCHEDULE OF CONDITONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: RDS 11510/10(A); RDS 11510/11(A).
- 2) The floorspace of the building to which this permission relates shall not at any time be separated, physically or otherwise, from the existing trailer sales and storage uses within the building, and at all times shall be used as a trailer repair workshop in connection with the existing trailer sales and storage uses within the building and for no other purpose (including any other purpose in Class B2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 3) The use hereby permitted under this permission shall only operate between the following times: 08:30am to 5:00pm on Mondays to Fridays, 08:30am to 1:00pm on Saturdays and at no time on Sundays, bank or public holidays.
- 4) The use hereby permitted shall operate in accordance with the following requirements at all times:
 - There shall be no HGV or forklift movements outside of the operating times stated in Condition No 3.
 - Doors of the workshop must be closed at all times during operation except for access.
 - No trailer alterations or repairs shall be undertaken outside of the permitted area of the workshop.
 - Forklift vehicles must be fitted with noise attenuated reversing alarms and all such alarms are to be kept in working condition and operable wherever a forklift truck is used on the site.
