



Appeal Decision

Site visit made on 13 February 2018

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2018

Appeal Ref: APP/N2535/W/17/3184033

Park Farm, Park Farm Road, Kettlethorpe, Lincoln LN1 2LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Allan Thomas, R A Holdings Ltd against the decision of West Lindsey District Council.
 - The application Ref 136325, dated 2 June 2017, was refused by notice dated 6 September 2017.
 - The application sought planning permission for the demolition of 6 No. existing livestock buildings and erection of 6 No. poultry buildings, together with associated feed bins, control rooms, hardstandings, service building and attenuation pond without complying with a condition attached to planning permission Ref 132019, dated 23 December 2014.
 - The condition in dispute is No 19 which states that: *The loading or unloading of large vehicles (defined as those with a gross vehicle weight of 3.5 tonnes and above) and the arrival or departure from the site of large vehicles shall be limited to the hours of 0700 to 2100 Mondays to Saturdays with no operations on Sunday.*
 - The reason given for the condition is: *To protect the amenity of the occupants of nearby dwellings and in accordance with policy STRAT1 of West Lindsey Local Plan First Review 2006 (Saved Policies).*
-

Decision

1. The appeal is allowed and planning permission is granted for the demolition of 6 No. existing livestock buildings and erection of 6 No. poultry buildings, together with associated feed bins, control rooms, hardstandings, service building and attenuation pond at Park Farm, Park Farm Road, Kettlethorpe, Lincoln LN1 2LD in accordance with the application Ref 136325 dated 2 June 2017, without compliance with condition number 19 previously imposed on planning permission Ref 132019 dated 23 December 2014 and subject to the conditions in the attached schedule.

Procedural Matter

2. The appellant submitted a noise assessment¹ (NA) with the appeal. As the Council and interested parties have had the opportunity to comment on this document, I have considered the NA in coming to my decision. I have also considered parties' views on conditions.

¹ Transport & Delivery/Collection Noise Assessment, Acoustics Report M1623/R02a, 8th September 2017.

Background

3. The appeal concerns an intensive livestock unit which the appellant wishes to be able to be served by large vehicles for loading and unloading purposes 24 hours a day 7 days a week. This is prevented by condition 19 on planning permission ref: 132019 which restricts these operations to the hours of 0700 to 2100 Mondays to Saturdays, and not at all on Sundays. The development approved under planning permission ref: 132019 has been implemented. The appellant has suggested an alternative condition that would require the use of an access road from the site directly onto the A156 outside of the hours currently permitted by the condition. The access road has been granted planning permission (ref: 136009) by the Council and, at the time of my site visit, was under construction.

Main Issue

4. I consider the main issue is whether condition 19 is reasonable and necessary, in the interests of protecting the living conditions of the occupiers of the nearest residential properties, in relation to the potential for noise and disturbance.

Reasons

5. The site is located at the end of Park Farm Road, which joins onto the A57 a considerable distance to the south of the site. The end of the access road contains a widened hardstanding area adjacent to the livestock buildings, and is used for associated purposes of loading and unloading. The route of the new access road lies beyond the livestock buildings, next to an attenuation pond.
6. Park Farm Road contains a number of isolated residential properties which lie approximately 450m and more from the livestock buildings that are within the appeal site boundary. The greatest concentration of these properties is towards where Park Farm Road joins the A57, furthest from the livestock buildings. However, large vehicles have to pass these properties in order to access and exit the site. A number of other livestock buildings, which are outside of the appeal site boundary, and buildings associated with an agricultural supplier are also accessed off Park Farm Road. Further isolated dwellings are found to the north of the site, separated by a number of fields, as well as along the A156.
7. As there is the potential for the proposal to cause additional noise through the increase in hours, the NA sets out to assess noise levels generated by the loading and unloading activities within the site with regard to British Standard (BS) 4142:2014 and, in relation to noise associated with vehicle movements, it utilises BS5228-1:2009 and ProG: Planning and Noise. The NA finds there would be a low likelihood of adverse impact at worst.
8. The Planning Practice Guidance: Noise (PPG) recognises that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. Therefore, it is also important to consider the effect of the characteristics of the noise. The PPG sets out that a contributory factor includes non-continuous sources of noise. This is of relevance to the proposal because of the intermittent nature of the noise that would be likely to arise from the loading and unloading, and the transport movements of large vehicles. It would also be at a time when noise levels

- would be likely to be at their quietest. The NA does, however, include an assessment of the characteristics of noise and adds corrections for tonality, impulsivity and intermittency, which I have taken into account.
9. The potential for the occupiers of the nearest residential properties to experience noise also has to be considered in the context that the loading and unloading, and the transport movements of large vehicles, would be likely to be occasional, based on the evidence concerning the operation of the livestock unit provided by the appellant. The effect of the appellant's alternative condition would be to remove any restriction on loading and unloading, although these activities would take place some distance from the nearest residential properties, and the use of Park Farm Road by large vehicles during the additional hours would not be permitted. Taking these matters together, I find no reasons to disagree with the conclusions of the NA.
 10. I am able to consider what, if any, conditions, should be attached to the grant of planning permission. When the restriction by condition of using only the access road from the site directly onto the A156 outside of the hours currently permitted is taken together with the low likelihood of noise impact, I consider this would adequately safeguard the living conditions of local residents.
 11. I acknowledge local residents' concerns over the use of Park Farm Road by large vehicles associated with the livestock unit, given the proximity of the transport movements to their properties and disturbance arising from noise. However, the proposal would not allow the extension of the current time periods under the original planning permission when large vehicles are permitted to use Park Farm Road. It would not, therefore, result in an increase of noise and disturbance in this regard, nor nuisance which may arise from vehicle lights, or cause additional highway safety and road surfacing effects, or other environmental issues. The transport movements of large vehicles would only be permitted during the additional hours when the access road directly onto the A156 is completed and available for use.
 12. It has also been raised whether or not the current restrictions in the condition are being complied with. This is a matter for the Council and the appellant, though, and so I attach this limited weight in my decision.
 13. Therefore, I conclude the proposal would not have an unacceptable effect on the living conditions of nearby residents, in relation to the potential for noise and disturbance. As such, condition 19 is not reasonable or necessary, and its removal would comply with the tests for planning conditions set out in paragraph 206 of the National Planning Policy Framework (Framework) and the related advice in the PPG concerning the application of these tests, subject to the imposition of the matters under condition that I have set out above.
 14. The proposal would also comply with Policy LP26 of the Central Lincolnshire Local Plan 2012 – 2036 (2017) which states 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, and that proposals should demonstrate how adverse noise and vibration have been considered. It would also comply with associated guidance in the Framework.

Conditions

15. I have included a new condition in relation to the restrictions on deliveries to and from the site by large vehicles. I have not imposed conditions relating to the timescale for implementation, the drawings which the development shall be carried out in accordance with and in relation to construction activities, as the physical works subject of the original planning permission have been implemented.
16. I have imposed all those remaining conditions from the original planning permission that I consider remain necessary and relevant. Where I have altered the wording of the remaining conditions put forward by the Council and the appellant, I have done so in the interests of precision and reflecting that the development subject of the original planning permission has been implemented and is in use, without changing their overall intention.

Conclusion

17. The proposal would not have an unacceptable effect on the living conditions of the occupiers of nearby residential properties, in relation to the potential for noise and disturbance. I have considered all matters that have been raised but none would demonstrate that condition 19 is reasonable and necessary. Accordingly, I conclude the appeal should be allowed and condition 19 should be removed, subject to the imposition of the new condition.

Darren Hendley

INSPECTOR

Schedule of Conditions

- 1) The extractor fans fitted with attenuators that meet the specified insertion loss values recommended by the acoustic report prepared by Matrix acoustic design consultants shall be retained and maintained.
- 2) The external walling and roofing materials approved by the Local Planning Authority under reference 133059 shall be retained and maintained.
- 3) The surface water drainage scheme approved by the Local Planning Authority under reference 133059 shall be retained and maintained.
- 4) The foul water drainage scheme approved by the Local Planning Authority under reference 133059 shall be retained and maintained.
- 5) All planting, seeding or turfing comprised in the details of landscaping approved by the Local Planning Authority under reference 133059 shall be retained and maintained. If any trees or plants which within a period of 5 years from the completion of the development that was approved under reference 132019 die, are removed, or become seriously damaged or diseased they shall be replaced in the next planting season with others of similar size and species and retained thereafter.
- 6) The bio diversity enhancement details approved by the Local Planning Authority under reference 133059 shall be retained and maintained.
- 7) Deliveries to and from the site by large vehicles (defined as those with a gross vehicle weight of 3.5 tonnes and above) using the Park Farm Access Road shall be limited to the hours of 0700 – 2100 Monday to Saturdays. Outside of these hours, any large vehicle accessing or leaving the site shall only use the access road approved under planning permission 136009 directly to the A156.