



Appeal Decision

Site visit made on 16 August 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 11 October 2018

Appeal Ref: APP/N2535/W/18/3201624

Silver Trees Farm, Westmoor Lane, Kettlethorpe, Lincoln LN1 2JW

- 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 D Young against the decision of West Lindsey District Council.
 - The application Ref 137097, dated 1 December 2017, was refused by notice dated 11 January 2018.
 - The development is described as proposed commercial unit.
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Decision

1. The appeal is dismissed.

Preliminary Issues

2. Since the date of the Council's decision, the National Planning Policy Framework 2018 (the Framework) has been published and has effect. The parties have had the opportunity to comment on the Framework and I have taken comments received into account in this decision.

Main Issues

3. The main issues are whether the proposal would be acceptable having regard to:
 - a) its location in relation to the minerals safeguarding area, the countryside and its accessibility by means of transport other than private vehicular transport; and
 - b) local planning policies relating to employment development.

Reasons

Location

4. The appeal site comprises an area of land and a number of former agricultural buildings that have been converted into 12 or so units for commercial use within use classes B1, B2 and B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987. The proposal is for the construction of an additional building with a footprint of approximately 670 square metres to provide three further commercial units in similar use with roughly 220 square metres of floor-space per unit together with welfare facilities. The building would be located on part of the site currently given over to grass and hardstanding.

Minerals Safeguarding Area

5. Policy M11 of the Lincolnshire Minerals and Waste Local Plan - Core Strategy and Development Management Policies 2016 (the Minerals Plan) seeks to ensure that developments do not prevent the exploitation of mineral deposits as an economic resource within identified Minerals Safeguarding Areas (MSAs) without adequate justification. Within MSAs proposals for non-minerals development should be accompanied by a Minerals Assessment, unless the development falls within one of the exemptions to the Policy. As the appropriate authority, Lincolnshire County Council should be consulted before any planning approval is given for non-exempt developments in MSAs.
6. None of the exemptions in Policy M11 applies to this proposal and the application was not accompanied by any assessment. Since the date of the Council's decision the appellant has contacted the relevant officer at Lincolnshire County Council and has clarified that assessments need only address the five bullet points set out in Policy M11.
7. The County Council has the responsibility for minerals safeguarding and has a legitimate role and expectation in the planning process for developments in MSAs. The appellant has addressed the bullet points in evidence but the Council has not responded to clarify its position. There is no evidence before me that the County Council has been consulted on the appellant's evidence. Accordingly, I cannot be satisfied that the appellant's responses to the bullet points would be sufficient and therefore the proposal does not accord with Policy M11 of the Minerals Plan.

The Countryside

8. Part E of Policy LP55 of the Central Lincolnshire Local Plan 2017 (the Local Plan) seeks to ensure that non-residential development in the countryside is appropriate having regard to its location, accessibility, impact on neighbouring uses and scale. The appeal site is largely developed as a commercial estate and is close to the A57 primary route, which offers access to the main transport networks. The fields surrounding the appeal site are largely in agricultural use and therefore the proposal is unlikely to have any unacceptable detrimental impact on the living conditions of neighbouring occupiers from noise and disturbance or other factors.
9. The proposed development would be contained wholly within the existing site and would be built partially on land already given over to hardstanding. Given the limited size of the building proposed the scale of development would be entirely in keeping with the existing use of the site and the surrounding area. Therefore, the proposal would accord with Policy LP55 of the Local Plan.

Accessibility by Public and Private Transport

10. Policy LP1 of the Local Plan supports sustainable development mirroring the Framework. Any increase in employment opportunities will have obvious economic and social benefits but increased car use has the potential for a negative impact on the environmental objective of sustainable development. The Council has pointed to alternative industrial areas in Saxilby, which have rail and bus links, whereas there are no rail links or dedicated bus stops for the appeal site. However, the appeal site is close to a number of villages that have no rail links with Saxilby and restricted bus links, none of which would appear

to be convenient for normal working hours. Therefore travel from these villages to employment in Saxilby is at least as likely to require private modes of transport as employment at the appeal site and for longer journeys.

11. Moreover, given the rural nature of the area, a greater reliance on private transport is to be expected and there is no evidence before me to show that the proposed development would lead to excessive reliance on private cars. Accordingly, the proposed development would not have any unacceptable environmental impact and the use of motor vehicles for employment purposes would comply with the requirements of sustainable development for the purposes of Policy LP1 of the Local Plan.

Employment Development

12. Policy LP5 of the Local Plan seeks to ensure that proposals that assist with job growth are supported subject to certain criteria being met. The Policy divides employment proposals into a number of categories based upon the designation of the location for the development. There are four main designations, with the last being Local Employment Sites (LES). In addition the Policy refers to 'Other Employment Proposals', where the location does not fall within any of the four main categories.
13. The Council's evidence clearly shows that it assessed the proposed development under the 'Other Employment Proposals' section of the Policy. However, the site itself is previously developed land defined in the glossary to the Framework as 'land which is or was occupied by a permanent structure, including the curtilage of the developed land... and any associated fixed surface infrastructure'. None of the exceptions in the definition apply to the appeal site. Moreover, the site is an established employment site having operated as a site for B1, B2 and B8 uses since 2004. Therefore, the proposal should have been assessed under the LES category of Policy LP5 of the Local Plan rather than under the 'Other Employment Proposals' section of the Policy as suggested by the Council.
14. Proposals under the LES category should demonstrate that the development would not conflict with neighbouring land uses, its scale would not harm the character of the area or the amenities of neighbouring occupiers and it would not have an unacceptable impact on the local or strategic highway network. The character and appearance of the appeal site would remain largely unchanged as a result of the proposed development and therefore it would have no appreciable additional effect on the character and appearance of the neighbouring area.
15. Access to the site is more than adequate to cope with additional traffic from an increase in commercial units and access to the main road network would not pose any unacceptable risks. The other matters are dealt with above in relation to development in the countryside and therefore the proposed development would accord with Policy LP5 of the Local Plan.

Planning Balance and Conclusion

16. I have concluded that the application is in accordance with Policies LP1, LP5 and LP55 of the Local Plan. However, on the basis of the evidence before me I cannot be satisfied that the assessment would be sufficient to satisfy the County Council. Given the County Council's responsibility for MSAs there is an

overriding requirement for consultation before any planning permission can be granted. I attach significant weight to the requirement for consultation and for this reason I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR