
Appeal Decision

Site visit made on 17 August 2016

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 4 November 2016

Appeal Ref: APP/Y2620/W/16/3146446

Beeches Farm, Crowgate Street, Tunstead, Norfolk, NR12 8RF

- 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 J Paterson against the decision of North Norfolk District Council.
 - The application Ref PF/15/1024, dated 7 July 2015, was refused by notice dated 21 January 2016.
 - The development proposed is a change of use of agricultural farm to business uses B1, B2 and B8 (*as described in the Town and Country Planning (Use Classes) Order 1987 (as amended)*).
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues in this case are: the effect of the appeal scheme on the living conditions of neighbouring residents, with particular reference to noise and disturbance; the effect on the safety and convenience of highway users; whether the scheme would make adequate provision for drainage, thereby safeguarding the water environment; and, whether, having regard to local and national policy, the appeal scheme amounts to an appropriate change of use in the countryside.

Reasons

3. Beeches House fronts onto the northwestern side of Crowgate Street. The main section of the appeal site comprises a former agricultural farmyard and associated buildings of Beeches Farm, which are situated immediately to the rear of the garden of Beeches House. An accessway, which also forms part of the site, runs from Crowgate Street alongside the southwestern side of the garden of Beeches House to the former farmyard. A property known as Beeches Farm Bungalow adjoins the western side of the former farmyard.
 4. The appeal scheme involves the change of use of an agricultural farm to business including use classes B1, B2 and B8. *The Town and Country Planning (Use Classes) Order 1987 (as amended)* indicates that Class B1 comprises uses that can be carried out in any residential area without detriment to the amenity of that area by reason of, amongst other things, noise. Class B2 use is defined as use for carrying on of an industrial process other than one falling within class B1. Class B8 relates to use for storage or as a distribution centre.
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5. The development for which planning permission is sought in this case has commenced and the appellant has confirmed that it started a number of years ago. At the time the appeal was made, the appellant indicated that whilst the majority of the site was occupied by Anglian Plant Hire Ltd (APL), it provides smaller scale facilities for a number of other businesses and private individuals and he has identified that in employment terms the equivalent of 38 full-time employees are associated with the scheme. The Council has confirmed that four small units within the appeal site, nos. 8-11, benefit from an extant consent for use class B8 (commercial storage). The planning application form indicates that the hours of opening are 06:00 to 18:00 hrs Monday to Sunday inclusive. In his supporting statement, the appellant confirms that the most restrictive hours that could be accommodated by APL would be 06:00 to 18:00 Monday to Friday and 06:00 to 16:00 hrs on Saturdays, although some activity would be necessary outside those restrictions from time to time.

Living conditions

6. Concerns raised with respect to noise and disturbance relate to the effect of the appeal scheme on the living conditions of residents of Beeches House. Whilst the appellant has indicated that there have been no complaints about appeal scheme noise from residents of the neighbouring bungalow, this is unsurprising as it is identified as his address on the application form. I give the lack of complaint from residents of the bungalow little weight.
7. By definition, uses falling within class B2 may well include uses that cannot be carried out in a residential area without detriment to the amenity. Furthermore, in its appeal statement the Council has confirmed that noise associated with the activities on site of APL, which appears to centre around on site plant/equipment storage and distribution, has been demonstrated to amount to a statutory nuisance. I understand that an associated abatement notice has been served, which the Council has indicated would be likely to result in that company ceasing to operate from the site after 1 September 2016. Nonetheless, this demonstrates the potential for uses of this type and scale, which would fall within the scope of the planning permission sought, to cause serious noise and disturbance.
8. I acknowledge that views from the main section of the appeal site into the adjacent garden of Beech House are limited by planting along the eastern section of the southern boundary of the former farmyard and by single-storey buildings along the western section, although a relatively open central area allows views between the two properties. The appellant has suggested that acoustic fencing could be erected to fill that central gap. However, whilst literature giving details of the proposed fencing has been submitted, its effectiveness in a particular situation would be dependent on the physical relationship to the noise source and receiver. In this case there is no assessment to show that, contrary to the view of the Council, it would be effective if erected in the location proposed at reducing the noise levels experienced at the neighbouring dwelling. Nor is there evidence to show that the existing boundary planting and low buildings are effective in that regard. I give little weight to the mitigation measure suggested by the appellant.
9. The appellant has identified that Beeches Farm has recently expanded into the pig fattening industry, it operates an existing unit in the local area and is in need of a second unit. He has indicated that in the event of planning

permission being refused in this case, the appeal site may well be used for that purpose. However, I have not been provided with any compelling evidence to show that it would be suitable for that purpose. Furthermore, I consider that the view of another interested party who suggests that many, if not all, of the existing buildings are not suitable for pig rearing, has some merit, given that many of the units are small and unlikely to be accessible by farm machinery. In any event, no formal noise assessment has been submitted comparing the noise impacts likely to be associated with the appeal scheme and claimed fallback uses. In my judgement, it is unlikely that the suggested fallback use would give rise to levels of noise as high as the appeal scheme, which has, I understand, included activity such as tracked plant traversing concrete hardstanding areas. Under these circumstances, I give little weight to the suggested fallback position.

10. I conclude that the appeal scheme would be likely to cause significant harm to the living conditions of neighbouring residents, with particular reference to noise and disturbance. It conflicts with Policy EN 4 of the *North Norfolk Core Strategy 2008* (CS) , which states that proposals should not have a significant detrimental effect on the residential amenity of nearby occupiers and is consistent with the aims of the *National Planning Policy Framework* (the Framework) insofar as it seeks to secure a good standard of amenity for existing occupants of land and buildings.

Safety and convenience of highway users

11. Crowgate Street is an unclassified highway with a speed limit of 60 mph, onto which a small number of dwellings front. This highway runs between Market Street, Tunstead and Church Road. Place UK, which I understand employs a large number of people and produces/exports around 3,500 tonnes of fruit each year, is located on Church Road, close to its junction with Crowgate Street.
12. The Highway Authority, who objects to the appeal scheme, has confirmed that Crowgate Street is limited in width to around 3 metres over the majority of its length, insufficient to allow vehicles to pass one another. Furthermore, I saw that opportunities for vehicles to pass by traversing the verges are limited to some extent by roadside hedging, which as a result of variations in alignment of the highway also restricts forward visibility in places. There is no dispute that this street is typical of the local unclassified highway network hereabouts. Whilst acknowledging that the street is deficient in alignment, width, passing provision and visibility, the appellant argues that these characteristics tend to limit vehicle speeds. This is accepted by the Highway Authority.
13. However, even when the likelihood of relatively low speeds is taken into account, the southwestern sightline available to drivers emerging from the appeal site access onto Crowgate Street falls well short of normal standards set out in the *Manual for Streets*. Furthermore, based on the evidence of the Highway Authority and the appellant, it appears likely that a much higher number of vehicle movements is associated with the appeal scheme, than was the case before or would be likely to be the case if it returned to agricultural use. These factors significantly increase the risk of drivers emerging from the site when others approaching along Crowgate Street have insufficient time to avoid a collision. In addition, whether it approaches or leaves the site from the northeast or southwest, the appeal scheme traffic increases the risk of vehicles

approaching in opposite directions on the local highway network coming into conflict with one another and having to reverse to find a suitable passing place, potentially bringing them into conflict with other road users, which also include pedestrians and cyclists.

14. I understand that in the last 5 years, during the period over which the APL business has been growing, there has been 1 personal injury accident recorded in the vicinity of the appeal site on Crowgate Street. There is significant variation in the numbers and types of vehicle movements associated with the enterprises that have occupied the appeal site at over recent years and so, as occupancy changes over time, the overall number of vehicle movements associated with the appeal scheme may increase further. In my view, this is not a matter that could be controlled through the imposition of reasonable conditions, not least as it would require an impractical level of monitoring.
15. I conclude that the appeal scheme would be likely to cause material harm to the safety and convenience of highway users. It would conflict with CS Policy CT5, which seeks to ensure that traffic associated with development would not harm highway safety and is consistent with the aims of the Framework, insofar as it requires account to be taken of whether safe and suitable access to development can be provided.

Drainage

16. The Environment Agency objected to the grant of planning permission on the basis that the appellant had not provided details of an acceptable foul and surface water drainage scheme and the existing arrangement posed an unacceptable risk of pollution to the water environment. However, the EA provided advice on ways in which the matter could be satisfactorily resolved and the appellant, in his appeal statement, has indicated that he would be willing to comply with its requirements. I have no reason to doubt that adequate safeguards could be secured through the imposition of a suitable condition, which requires details to be approved and implemented in a timely manner.
17. I conclude that, subject to condition, the appeal scheme would make adequate provision for drainage, thereby safeguarding the water environment, in keeping with the aims of CS Policy EN 13 and the Framework.

Whether it amounts to an appropriate change of use in the countryside

18. CS Policy SS 1 indicates that the majority of new development in North Norfolk will take place in the towns and designated villages. The rest of North Norfolk, which would include the appeal site, will be designated as countryside and development will be restricted to particular types of development to support the rural economy, meet affordable housing needs and provide renewable energy. CS Policy SS 2 identifies that in areas designated as countryside, development will be limited to that which requires a rural location and is for one of a number of identified purposes. They include the re-use of buildings for appropriate purposes. CS Policy EC 2 indicates that the re-use of buildings in the countryside for non-residential purposes will be permitted providing, amongst other things, that the proposal is in accordance with other policies seeking to protect amenity. It appears to me that these Policies are consistent with the aims of the Framework, which indicates that planning policies should support economic growth in rural areas in order to create jobs and prosperity

by taking a positive approach to sustainable new development, which may involve conversion of existing buildings.

19. However, I have found that the appeal scheme would conflict with CS Policy EN 4 insofar as it seeks to safeguard residential amenity. It follows that it would conflict with CS Policy EC 2 and SS 2. As to whether the exiting appeal site enterprises need to be situated in this rural location; the appellant has suggested that, in the event of planning permission being refused, those businesses may face a number of difficulties, such as in identifying new premises, incurring relocation costs and they may need to find new staff. However, there is no evidence to show that any of these matters has been formally assessed to support a conclusion that the future viability of any of these businesses and the contribution they make to the rural economy would be seriously threatened.
20. On the contrary, the Council's business development officer has indicated that there may be suitable alternative sites in the area from which APL could operate. Furthermore, evidence provided by an interested party indicates that, as of June 2016, the appellant was in the process of organising the relocation of APL to another site, a view supported by notices that I saw posted on site indicating that at least part of APL's operation had already moved to another location. In any event, it appears that that particular enterprise would have to cease operating from the appeal site in order to comply with the Council's noise abatement notice, whether planning permission is granted or not. As to the other businesses that currently operate from the appeal site, they occupy relatively small areas, in comparison with APL. I have not been provided with any evidence to show that the units identified as being available elsewhere by the Council's business development officer would not provide a suitable and viable alternative to the appeal site. There is no compelling evidence to show that dismissal of this appeal would seriously threaten either the future of those enterprises or the contribution that they make to the local economy.
21. I consider overall, it appears that the appeal scheme does not need to be sited in this rural location and under the circumstances, which include a conflict with a Policy that seeks to protect amenity, it would not accord with CS Policy SS 2.
22. An earth bund has been constructed along the northwestern boundary of the site and subject to landscape planting, which could be secured by condition, it is unlikely that plant and equipment stored in the rear yard area would have a material detrimental effect on the character of the surroundings as appreciated from public vantage points to the north. Views of the storage areas within the site from other directions are restricted for the most part by the existing buildings and intervening planting. Therefore, the appeal scheme would be unlikely to have a material detrimental effect on the surrounding landscape, which comprises of agricultural land for the most part. In this respect the scheme would not conflict with CS Policy EN 2 insofar as it seeks to safeguard landscape character.
23. Nonetheless, in my judgement, it has not been clearly demonstrated that the appeal scheme would have benefits, whether environmental, social or economic that would outweigh the harm that I have identified in relation to residential amenity. Therefore, the scheme would conflict with CS Policy EN 13 and it would not amount to sustainable development under the terms of the Framework. I conclude on balance, having regard to local and national policy,

that the appeal scheme would not be an appropriate change of use in the countryside.

Conclusion

24. Notwithstanding my finding regarding drainage, I conclude on balance, for the reasons given above, that the appeal should be dismissed.

I Jenkins

INSPECTOR