
Appeal Decision

Site visit made on 5 April 2017

by Grahame Gould BA MPhil MRTPI

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

Decision date: 3rd May 2017

Appeal Ref: APP/Z3825/W/16/3165620

Lock Farm, Lock, Partridge Green, Horsham RH13 8EG

- 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 John Ford against the decision of Horsham District Council.
 - The application Ref DC/16/1036, dated 26 April 2016, was refused by notice dated 2 September 2016.
 - The application sought planning permission for the removal of a condition from WG/61/01 to allow permanent storage use, without complying with a condition attached to planning permission Ref WG/56/02, dated 30 September 2002.
 - The condition in dispute is No 2 which states that: This permission shall be carried on only by A J Walters Aircraft Components.
 - The reason given for the condition is: To enable the Local Planning Authority to maintain control over the development in future.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Ford against Horsham District Council. This application is the subject of a separate decision.

Background and Procedural Matters

3. Planning permission WG/56/02¹ (the permission) varied an earlier permission (WG/61/01) and enabled 760 square metres² (around two thirds) of a barn at Lock Farm to be occupied, on a personalised basis, by A J Walters Aircraft Components (AJ Walters) as a permanent storage facility. A J Walters occupied the barn between 2000 and 2004, in association with other premises it occupied in Partridge Green, and it ceased using the barn when it moved to other premises in Slinfold.
4. The application (DC/16/1036) sought the removal of condition 2 to enable the barn to be used for storage purposes on an unrestricted basis by any '... user or use', ie for purposes in Class B8. The appealed application having been submitted further to the Council's refusal to grant planning permission, under

¹ Incorrectly identified as planning permission WG/58/02 on the application form and the decision notice for application DC/16/1036

² As stated in Mr Farquhar's email of 16 August 2016 to the Council

application DC/15/2638, for a change of use to enable the barn to be used for the storage of classic cars, motorhomes, boats and caravans.

5. The intention of application DC/16/1036, as submitted to the Council, was the complete removal of condition 2. However, as part of the appeal the appellant has invited me to consider varying condition 2 so that classic cars, motorhomes, boats and caravans could be stored, in effect a reversion to the proposal that was subject to application DC/15/2638.
6. If I was to consider the appeal on the basis of varying condition 2, along the lines now promoted by the appellant, that could cause prejudice to the Council and other interested parties, because such an approach would depart from the terms of the originally submitted application. That is because I would in effect be re-determining application DC/15/2638, without that being immediately apparent to those who were notified of application DC/16/1036's submission and/or who made representations in connection with that application or this appeal. If the appellant had wished to further pursue the proposal that was subject to application DC/15/2638 then the appropriate courses of action would either have been to make an appeal against application DC/15/2638's refusal or to have submitted a second application for the previously proposed use.
7. To avoid the possibility of prejudice being caused to the Council and the other interested parties I have therefore determined the appeal on the basis of it being purely for the removal of condition 2.

Main Issue

8. The main issue is whether the site would be a suitable location for an unrestricted Class B8 storage and distribution use, with particular regard to highway safety and the character of the area.

Reasons

9. Lock Farm's farmyard comprises three barns and some silos and it is accessible via Lock Lane, a private, single vehicle width track, with limited passing places, which forms part of the local bridleway and public footpath network. The farmyard is approximately 1.7 Km from Bines Road/B2135 and Lock Lane serves around 28 properties³.
10. The barn is quite remotely located and its use for storage purposes, on an unrestricted basis, would have the potential for Lock Lane to be used by vehicles of sizes and in numbers that would be incompatible with the lane's use by pedestrians, horse riders and cyclists, given its bridleway status. The reason for condition 2's imposition is quite vague, namely maintaining control over the development in the future. However, the background information relating to the granting of the permission suggests that it was Lock Lane's capacity to accommodate traffic that was the underlying concern that led to condition 2's imposition.
11. When application WG/56/02 was determined it was envisaged that the barn's occupation by AJ Walters would generate on average 'one van movement per day'⁴. That level of vehicular activity would have been very low and the

³ Paragraph 2.1 of the appellant's statement of case

⁴ Background section of the Council's officer report for application DC/16/1036

residents' written representations suggest that level was borne out in practice. Nothing in the permission could have stopped AJ Walters intensifying its use of the barn, and thus generating more traffic. However, that is something that did not happen and is now only an academic consideration because AJ Walters no longer have premises in the area. I therefore consider that very little weight can be attached to this aspect of the appellant's case.

12. Very little in the way of vehicular movement evidence for the barn's unrestricted Class B8 use has been provided, with an email of 16 August 2016 briefly referring to a mix of lorries and vans potentially making movements to and from the site. It was stated that ten vans might operate from the barn, however, the movements those vans might generate has not been quantified. Given Class B8 covers a wide range of storage and distribution activities I consider that the limited vehicular movement evidence that has been provided is not sufficiently detailed to be relied upon. On the basis of the available evidence I am unable to conclude that the unrestricted use of the barn for a Class B8 use would not adversely affect, in particular, the safety of pedestrians, horse riders and cyclists.
13. The highway authority restricted its comments to the development's effect on the operation of the junction between Lock Lane and the B2135 and raised a concern about the adequacy of the northern sight line at this junction, given the 40mph speed limit and the limited information accompanying the application⁵. It is, however, unclear whether the highway authority was given the opportunity to comment on the contents of the email of 16 August 2016. As I have indicated above that email provides limited additional information and I consider that it inadequately addressed the concern alluded to by the highway authority in its comments to the Council. I therefore consider that the highway authority's unresolved concern adds further weight to the unsuitability of Lock Lane to accommodate an unrestricted Class B8 use.
14. The site is within the open countryside and Policy 2 of the Horsham District Planning Framework (excluding South Downs National Park) of 2015 (the HDPF), states that in order to maintain the unique rural character in the Council's area, as part of the growth strategy in the area local employment, amongst other forms of development, should be focused within the main settlements in the district. The movement of commercial vehicles up and down Lock Lane has the potential to cause harm to the area's rural character, which I found to be quite tranquil, given the extent of the farmland in the area and the distance from Bines Road. I consider that the available evidence has not demonstrated that the comings and goings associated with the barn's use for storage and distribution, on an unrestricted basis, would be in sympathy with the area's rural character.
15. I appreciate that were the barn to be used for agricultural purposes it would be capable of generating vehicular movements. However, Lock Farm is surrounded by farmland and the barn's agricultural use would not necessarily entail vehicles using the entire length of Lock Lane between the barn and the B2135. I therefore consider it unlikely that the barn's agricultural use would have the same vehicle generating implications as would be the case for an unrestricted Class B8 use.

⁵ Consultation response to the Council of 2 August 2016

16. Condition 2, by naming a specific occupier, amounts to a personal permission. I am mindful of the guidance in the Planning Practice Guidance relating to personal permissions and the restriction of uses. However, I am concerned that Lock Lane would not have the capacity to accommodate a significant volume of commercial traffic and that such traffic could be harmful to the area's rural character. Given those concerns I consider there is a need for this barn's use to be more strictly controlled by condition.
17. I recognise that the proposal could assist with rural diversification, however, no evidence has been provided quantifying what contribution there might be to such diversification. I am therefore not persuaded that the evidence relating to rural diversification should be treated as outweighing the concerns that I have identified. It has been submitted that if the building was still in agricultural use then under the permitted development rights regime the barn's use could be changed to a Class B8 use without needing an express planning permission⁶. However, the floor area of the barn means that before such a change of use could occur it would be necessary to obtain the Council's prior approval. In making a prior approval application transport and highway impacts would be for consideration. As those impacts would need to be taken into consideration, prior approval would not necessarily be forthcoming. I therefore consider that this aspect of the appellant's case attracts little weight.
18. On the available evidence I conclude that the barn would be in an unsuitable location for an unrestricted Class B8 use because it has not been demonstrated that there would not be harm to the safety of the users of Lock Lane and Bines Road or the rural character of the area. There would therefore be conflict with Policies 2, 32, 33 and 40 of the HDPF. That is because the development would not: be respectful of the area's rural character; provide a safe environment; be well integrated with the public rights of way network; and provide a safe access for all of the users of the access (Lock Lane). I also consider that there would be conflict with paragraph 32 of the National Planning Policy Framework (the Framework) because the volume of traffic generated by the development has not been adequately quantified so as to demonstrate that a safe and suitable access to the site can be achieved for all people.
19. I consider my conclusion on the main issue does not run contrary with the support for building a strong, competitive economy and a prosperous rural economy referred to in paragraphs 18 to 21 and 28 of the Framework. That is because it has not been shown that any economic benefits could be achieved at this site without their being harm to Lock Lane's users or the area's rural character.

Conclusions

20. On the basis of the available evidence I am unable to conclude that an unrestricted Class B8 storage and distribution use would not be harmful to the safety of the users of Lock Lane and the public highway or the area's rural character. The harm I have identified gives rise to conflict with the HDPF and the Framework and I therefore find that this would be an unsustainable form of development when those documents are read in the round.

⁶ Class R of Part 3 of the Second Schedule to The Town and Country Planning (General Permitted Development) (England) Order 2015

21. For the reasons given above I conclude that it would be inappropriate for the barn to be used for a Class B8 use on an unrestricted basis and that condition 2 should therefore not be removed. The appeal is therefore dismissed.

Grahame Gould

INSPECTOR