

Appeal Decision

Site visit made on 24 April 2017

by C Jack BSc(Hons) MA MA(TP) MRTPI

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

Decision date: 9 May 2017

Appeal Ref: APP/L3815/W/17/3168027

Linnet Nursery, Lockgate Road, Sidlesham PO20 7QQ

- 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 N Evans of Haygrove Sidlesham Ltd against the decision of Chichester District Council.
 - The application Ref SI/16/02739/FUL, dated 5 September 2016, was refused by notice dated 18 November 2016.
 - The development proposed is the erection of a new packhouse.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new packhouse at Linnet Nursery, Lockgate Road, Sidlesham PO20 7QQ in accordance with the terms of the application, Ref SI/16/02739/FUL, dated 5 September 2016, subject to the Schedule of Conditions to this Decision.

Application for costs

2. An application for costs was made by Haygrove Sidlesham Ltd against Chichester District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site consists of a mainly grassed area situated at the front of the wider Linnet Nursery premises, adjacent to Lockgate Road and the access drive to the premises. At the rear of the site is an extensive area of existing glasshouses. A public footpath runs alongside the site, just outside the eastern boundary. There is a separate residential property, Linnet House, adjacent to the site to the west. The site is a short distance from the modest settlement of Sidlesham, and is set in an area that is predominantly rural in character. There are a number of residential properties nearby on Lockgate Lane, together with a prestige cars showroom opposite the appeal site, and various other horticultural and farm holdings.
 5. It is proposed to erect a new packhouse on the grassed area. The single-storey building would have a footprint of approximately 30m x 36.6m and height of approximately 7.5m to the ridge. It would be set back from the road to a similar degree to Linnet House. A minibus drop-off zone and three car
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parking spaces would be provided at the rear of the building, where there is an existing area of hardstanding. The packhouse would provide warehouse space, a packing room, cold stores, a reception area and modest office, and associated facilities for staff for the appellant's soft fruit growing business, which operates from a number of generally small-scale sites elsewhere on the Manhood Peninsula.

6. The site lies in the countryside, outside any Horticultural Development Area (HDA) as defined by Policy 32 of the adopted Chichester Local Plan: Key Policies 2014-2029 (CLP). Policy 32 sets out that outside HDAs planning permission will be granted for new horticultural development where various criteria are met. The Council's concern in this regard centres on policy criterion 8, which requires that *'There is a horticultural justification for the development and it can be demonstrated that the proposal cannot be accommodated within existing HDAs'*.
7. The proposal is sought in connection with an existing, and apparently expanding, fruit growing business, which operates in the locality with fruit mainly being grown in various existing polytunnels and glasshouses. On this basis, it is apparent that there is an active horticultural basis for the proposal. The appellant advises that the existing rented packing facility does not meet their business requirements for various reasons, including that it is too small to service current production levels, poorly located relative to growing sites, and rented and in poor repair. The appellant has also set out a number of reasons why the proposed packhouse could not be located on another site currently in use by the business either within or outside a HDA, which principally relate to a lack of available space on all sites and the rented status of many of them.
8. I note that the appellant has not provided a detailed and exhaustive assessment of all other sites within the local HDAs that are not currently owned or rented by them. However, on balance I accept their position that the business would not currently be able to support a site acquisition and investment in a new building at the same time. While there is limited evidence before me to substantiate this, there is also no significant counter evidence. Furthermore, the proposal would assist the sustainable growth and expansion of a land-based rural enterprise, supporting and creating jobs in the rural economy, consistent with the aims of Paragraph 28 of the National planning Policy framework (the Framework).
9. The facility would be located in reasonable proximity to the appellant's other growing sites and for a number of reasons, including the perishable nature of soft fruit, it is logical that the produce is brought to cold storage as quickly, and therefore as locally to point of production, as possible. I am therefore not persuaded by the view that the requirement could be more appropriately met at a facility on an industrial estate at an unspecified settlement elsewhere.
10. While there would be no fruit production in the packhouse itself, I am satisfied that the fruit growing involved is intrinsically a land-based enterprise, and that the storage and packing of the fruit is a key element of the process involved in the specific circumstances of this case. It would therefore reasonably require a countryside location and so be generally consistent with the requirements of Policy 45 of the CLP, which seeks to ensure that development outside settlements boundaries requires a countryside location and meets the

essential, small scale, and local need which cannot be met within or immediately adjacent to existing settlements.

11. The proposed building would have a functional appearance and, in terms of its design and scale, it would be resonant of a modern agricultural barn and would not be out of keeping with the predominantly rural setting. It would be set back from the road sufficiently to allow for a scheme of landscaping, in addition to the existing front hedge, to be carried out, which would soften the appearance of the building and provide screening. Such landscaping could be reasonably secured by condition, as could details of the external materials of the building.
12. Furthermore, the building would be set against the backdrop of the existing glasshouses within a site established as a commercial nursery, and adjacent to other properties. As a result, the packhouse would not be unduly visually prominent, or compromise an area of open countryside, or significantly affect views across substantially open land. Views of the site from the adjacent footpath are largely screened by a hedge and are foreshortened by the house, trees and boundary hedge at Linnet House.
13. In light of the above, I conclude that the proposed development would not harm the character and appearance of the area, and that it would be generally consistent with Policies 32 and 45 of the adopted CLP, the relevant requirements of which are set out above.

Other Matters

14. I have considered the various other matters raised by interested parties, including in relation to noise and disturbance, vehicle movements and highway safety, flooding, late night working, change of use to industrial, light pollution and the effect on wildlife. I consider that the appeal scheme would include a suitable access and off-street parking and turning facilities. The Highway Authority has raised no objection to the proposal and there is no significant evidence that it would be harmful to traffic conditions in the locality.
15. The appellant's specialist ecological appraisal identifies no significant wildlife concerns, other than advising of the need for the careful and seasonal dismantling under a watching brief of a small log pile on the site, which was identified as having some shelter potential for great crested newts, albeit the value of the wider site for foraging newts was found to be low. This matter was also noted by the Council's ecology officer. Due to the statutory protection afforded to the species it is reasonable and necessary that this requirement should be secured by condition, notwithstanding that the appraisal considers it unlikely that any protected species will be identified. On the evidence before me, no other ecology conditions are necessary.
16. The Council's technical officers have not raised any significant concerns in relation to potential flooding and there is no substantive evidence before me to suggest otherwise. Surface water drainage and sewerage details could be controlled by planning conditions. Given the relatively modest scale and nature of the development, at an existing commercial horticultural site, it is unlikely that it would have any significant impact on the living conditions of nearby residents, including in terms of vehicle movements, when compared to the site's established use, and the use of the building could be restricted by condition to horticulture-related production. The building has limited windows

and rooflights, and external lighting could be controlled by condition, and so no significant effect from light emissions would be likely.

17. I conclude that none of the matters discussed in this section of my decision add materially to the case for or against the appeal.

Conditions

18. I have considered the Council's list of suggested conditions together with others suggested through the course of the application, and the appellant's related comments. Where necessary, I have altered the suggested conditions for clarity, accuracy or to accord with the tests set out in the Framework. In addition to the standard time limit, I have imposed a condition specifying the approved plans as this provides certainty. Conditions relating to external materials, landscaping and lighting are necessary in the interests of the character and appearance of the area. The provision and retention of car parking and conditions relating to drainage are necessary to ensure the satisfactory operation of the development. A condition requiring a watching brief for the dismantling of the log pile is necessary in the interests of protected species. A condition relating to construction hours is necessary in the interests of the living conditions of nearby residents.
19. A condition limiting the use of the building to processes and associated uses in connection with horticultural produce is necessary in the interests of ensuring that the building is available for the purpose for which its need has been identified. However, it has not been justified that such use should be restricted to the business activities of the appellant only and I have not imposed a condition to this effect. I have not imposed conditions relating to sound reproduction and amplification, or a construction management plan, as it has not been demonstrated that these are reasonably necessary in relation to the site and the specific development proposed.
20. Conditions 7 and 12 require action before development commences. This is necessary because these conditions may affect the method or timing of implementation for the scheme.

Conclusion

21. For these reasons, and having regard to all matters raised, I conclude that the appeal should be allowed.

Catherine Jack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing 1 Location Plan; Drawing 2 Block Plan; Drawing 3B; Proposed Site Plan; Proposed Floor Plan 4A; Proposed Elevations 5A; Proposed Section 6A; and Drawing 10 Access Visibility.
- 3) No part of the superstructure of the building hereby permitted shall be carried out unless and until a schedule of materials and finishes and, where so required by the local planning authority, samples of such materials and finishes to be used for external walls and roofs of the proposed building and where appropriate surfacing materials have been submitted to and approved by the local planning authority. The development shall be implemented in accordance with approved details and retained as such thereafter.
- 4) Details of any external lighting shall be submitted to and approved in writing by the local planning authority prior to installation. Such lighting shall then be carried out only in accordance with the agreed details.
- 5) No part of the development hereby permitted shall be first occupied until the car parking has been constructed in accordance with the approved site plan (Drawing 3B). These spaces shall thereafter be retained at all times for their designated purpose.
- 6) The building hereby permitted shall not be used other than for processes relating to the storing, preparing, packaging and assembling of horticultural produce and associated administration and staff facilities.
- 7) No development shall take place unless and until there has been submitted to and approved in writing by the local planning authority a landscape plan, which shall include a landscape buffer including the planting of native hedgerow and trees along the southern site boundary, a planting plan and schedule of plantings noting species, plant size and proposed numbers/densities. All existing trees/hedgerows on the land shall be indicated including details of any to be retained, together with measures for their protection in the course of development.
- 8) All planting, seeding or turfing and bunding comprised in the approved scheme of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants, including any existing trees or hedgerows indicated as being retained in the approved scheme, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) The building hereby permitted shall not be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local

planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall include a management and maintenance plan for the lifetime of the development.

- 10) The building hereby permitted shall not be occupied until works for the disposal of sewage shall have been provided on the site to serve the development, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 11) The construction of the development and associated works shall not take place on Sundays or Public Holidays or any time otherwise than between the hours of 0700 hours and 1800 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays.
- 12) No development shall take place until the log pile on site has been dismantled under a watching brief by a suitably qualified ecologist between April to October inclusive.