

Appeal Decisions

Hearing held on 11 April 2017

Site visit made on 11 April 2017

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 11th May 2017

Appeal A Ref: APP/G2713/W/16/3153705

Rose Cottage, Crayke, North Yorkshire YO61 4TJ

- 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 R Dawson against the decision of Hambleton District Council.
 - The application Ref 15/00469/MRC, dated 6 March 2015, was refused by notice dated 7 April 2016.
 - The application sought planning permission for the construction of an agricultural building for the storage and housing of a grain dryer as amended by plans received by Hambleton District Council on 12 April and 3 July 2012 without complying with a condition attached to planning permission Ref 11/02736/FUL, dated 1 May 2012.
 - The condition in dispute is No 3 which states that: "Any grain dryer located within the building hereby approved shall only be used as part of the farming operation (undertaken by the landowner at Rose Cottage and Mount Pleasant Farm, Crayke or any land in the occupation of the same landowner) for produce produced on the holding, and shall not be used in connection with a separate commercial enterprise. Records of all grain movements to and from the approved building shall be kept at the private weighbridge (shown on drg no 923/12B) and be available for inspection by officers of the Local Planning Authority and Local Highway Authority, at all reasonable times."
 - The reason given for the condition is: "For reasons of highway safety and residential amenity in accordance with LDF Policies CP1, CP2, DP1 and DP4".
-

Appeal B Ref: APP/G2713/W/16/3153706

Rose Cottage, Crayke, North Yorkshire YO61 4TJ

- 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 R Dawson against the decision of Hambleton District Council.
 - The application Ref 15/00471/MRC, dated 6 March 2015, was refused by notice dated 7 April 2016.
 - The application sought planning permission for the construction of an agricultural weighbridge, associated hardstanding and control portacabin as amended by letter received by Hambleton District Council on 12 August 2011 and plan received on 1 September 2011 without complying with a condition attached to planning permission Ref 11/01483/FUL, dated 8 September 2011.
 - The condition in dispute is No 4 which states that: "The weighbridge hereby approved shall not be a Public Weighbridge, it shall only be used in connection with the farming operation undertaken at Rose Cottage and the Mount Pleasant Farm, Crayke and shall not be used in connection with any other farming activity or separate commercial enterprise without the prior written consent of the Local Planning Authority".
-

- The reason given for the condition is: "For reasons of highway safety and residential amenity in accordance with LDF Policies CP1, CP2, DP1 and DP4".
-

Decisions

1. Appeal A is allowed and planning permission is granted for the construction of an agricultural building for the storage and housing of a grain dryer as amended by plans received by Hambleton District on 12 April and 3 July 2012 at Rose Cottage, Crayke, North Yorkshire YO61 4TJ in accordance with the terms of the application, Ref 15/00469/MRC, dated 6 March 2015, without compliance with the conditions previously imposed on planning permission Ref 11/02736/FUL, dated 1 May 2012, and subject to the new conditions set out in Annex A.
2. Appeal B is allowed and planning permission is granted for the construction of an agricultural weighbridge, associated hardstanding and control portacabin as amended by letter received by Hambleton District Council on 12 August 2011 and plan received on 1 September 2011 at Rose Cottage, Crayke, North Yorkshire YO61 4TJ in accordance with the terms of the application, Ref 15/00471/MRC, dated 6 March 2015, without compliance with the conditions previously imposed on planning permission Ref 11/01483/FUL, dated 8 September 2012, and subject to the new conditions set out in Annex B

Background and Main Issue

3. Permission was granted at Rose Cottage in 2011 and 2012 for an agricultural weighbridge, and an agricultural building for storage and the housing of a grain dryer respectively. These were both subject to a number of conditions, including ones to restrict the use of the weighbridge and the dryer to the farming operation connected to Rose Cottage and Mount Pleasant Farm. In the light of changing practices in farming, the appeals seek to remove this condition on each permission.
4. Therefore, the main issue in both appeals is whether the condition is reasonable and necessary having regard to highway safety, and the living conditions of nearby residents with particular regard to noise and disturbance.

Reasons

5. The appeal site is a farm located in the countryside between Crayke and Easingwold. The site comprises a dwelling which is occupied independently of the farming enterprise, and a number of agricultural buildings, including one that houses the grain dryer, and the agricultural weighbridge.
6. In addition to this farm the appellant is also the tenant at the adjacent Mount Pleasant Farm and also "farms" other land in the area under a variety of other arrangements. For various reasons, the appellant's evidence states that contract farming of this kind is now common place.
7. At present about 75% of the land the appellant farms is used to produce grain, with the rest being used for a range of other crops and rearing sheep. The surrounding area is predominantly agricultural and used for similar crops. The crops grown on all the land the appellant currently farms is brought to, and stored within, the various buildings at Rose Cottage, and the grain is sold throughout the year to a number of different mills. At the hearing, it was confirmed that the current traffic movements associated with bringing the

- harvest to be stored at Rose Cottage, and the onward sale of the produce does not give rise to any highway issues.
8. As the agricultural storage buildings at Rose Cottage have no restrictions on them other than the fact that they can only be used for agricultural purposes, all the grain and other crops produced by the appellant on any of the land he farms can be stored at Rose Cottage. However, as a result of the disputed condition in Appeal A, only the grain grown on the land associated with Rose Cottage and Mount Pleasant Farms can be dried using the grain dryer in the agricultural building.
 9. Consequently, should other grain need to be dried, it would either have to be taken to a commercial dryer elsewhere before being returned to Rose Cottage to be stored until it is sold, or a mobile dryer would need to be brought on to the site. Both these options actually create more traffic movements than if the grain was actually dried on the site, as additional traffic would be generated in either getting the mobile dryer to and from the site, or in taking the grain to and from the commercial dryer.
 10. As such, the disputed condition controlling the use of the dryer does not in any way restrict or reduce traffic movements to and from the site that relate to the appellant's business. What in fact controls traffic movements to the site is the storage capacity of the barns, and the fact that they can only be used for agricultural not commercial purposes.
 11. Moreover, the Council confirmed at the hearing that the actual use of the dryer does not in itself cause noise and disturbance, but that such issues relate to the noise and disturbance caused by traffic movements to and from the site. Given my conclusion that this condition does not in fact limit these traffic movements associated with the appellant's business, it does not control the noise and disturbance that may be created by these movements.
 12. The disputed condition in Appeal B similarly seeks to limit to use of the weighbridge. However, the wording of this condition is not as detailed as that in the disputed condition in Appeal A as it simply refers to its use being restricted to the "farming operation undertaken at Rose Cottage and Mount Pleasant Farms". I consider that what constitutes the 'farming operation' is open to interpretation in the light of the changes in farming practices, and the growth of contract farming arrangements. As a result what can or cannot be weighed is unclear.
 13. Nevertheless, even if it is taken to mean that the weighbridge can only be used in connection with materials and produce connected with these two farms, rather than any other land "farmed" by the appellant, it does not limit traffic movements as the crops could still come to the farm for storage, but just could not be weighed. Similarly other items such as fertiliser and seeds would still come to Rose Cottage to be stored before being used, but only those to be used on certain fields could be weighed. Therefore, controlling the use of the weighbridge does not limit the traffic movements to and from the farm.
 14. The Council argued that the removal of the conditions could result in the unrestricted use of the dryer and weighbridge. However, as the weighbridge and the building within which the dryer is housed are both restricted by being agricultural in nature, this means that planning permission would be required if they were to be used on a commercial basis. I accept that were I to allow the

appeals there could be an element of ancillary use that may not constitute a material change of use. Nevertheless, in my view, even at its worst, this would not generate such significant levels of additional traffic movements to cause unacceptable highway safety, or noise and disturbance issues.

15. I note the concerns of a number of local residents that the roads in the area, especially in Crayke are narrow, and that the movement of agricultural vehicles and grain lorries through the area causes highway safety issues. However, as noted above, at the hearing the Highways Authority confirmed that the farming operation carried out by the appellant currently does not give rise to any highway safety issue, and the level of traffic movements created are commensurate with the size of the operation. Moreover, the farming of the land that the appellant currently farms under contract would create traffic movements through the area whoever was farming the land.
16. In addition, the appellant highlighted that in the past the area was used to grow a considerable amount of sugar beet and potatoes which both yield much more tonnage per hectare than grain, and so resulted in considerably more traffic movements. The appellant indicated that there was a distinct possibility of growing such crops again in the future. This would therefore result in an increase in agricultural related traffic movements on the local road network, irrespective of these conditions.
17. Therefore, I consider that the conditions are not reasonable or necessary either in the interests of highway safety, or to protect the living conditions of nearby residents with particular regard to noise and disturbance. The developments without the conditions would comply with Policies CP1 and CP2 of the *Hambleton Core Strategy Development Plan Document (adopted April 2007)* and Policies DP1 and DP4 of the *Development Policies Development Plan Document (adopted February 2008)* which seek to ensure that developments do not have an adverse traffic impact, and protect amenity. In addition, as the disputed conditions are not necessary or reasonable, they fail the tests in paragraph 206 of the *National Planning Policy Framework*.

Other Matters

18. I note the reference to possible noise issues related to the fans on one of the other storage buildings, but these, and the building they are associated with, are not matters that are before me at this appeal.

Conclusion

19. For the reasons given above, I conclude that both the appeals should be allowed. I have therefore granted new permissions for the agricultural building and the agricultural weighbridge, deleting the disputed conditions.
20. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Therefore I have re-imposed all the conditions that remain relevant, as discussed at the hearing.

Alison Partington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Stovell	Stovell and Millwater Planning Consultants
Jonathan Wood	Clubleys
Rob Dawson	

FOR THE LOCAL PLANNING AUTHORITY:

Helen Laws	Hambleton District Council
Graham Hind	North Yorkshire County Council

INTERESTED PERSONS:

Phillip Hilling	Resident
Peter Cliff	Crayke Estate

DOCUMENTS SUBMITTED AT THE HEARING

1. Map and list of other farms in the local area submitted by the appellant.
2. Officers Report on planning application 11/00226/FUL for an agricultural storage building at Mill Farm, Raskelf submitted by the appellant.
3. Map showing location of Crayke Primary School in relation to appeal site submitted by the local planning authority.

Annex A

Conditions for Appeal A: APP/G2713/W/16/3153705

1. In respect of the landscaping scheme approved under planning permission 11/02736/FUL any trees or plants which within a period of 5 years of planting die, are removed or become seriously damaged or diseased, shall be replaced with others of similar size and species.
2. No more than one grain dryer shall operate at any time at Rose Cottage, Crayke.
3. There shall be no installation or operation of means of illumination on the application site without details having first been submitted to, and approved in writing by, the local planning authority. Thereafter any means of illumination shall be operated in accordance with the approved details.
4. In respect of the noise attenuation scheme approved under planning permission 11/02736/FUL the works and scheme shall be maintained in accordance with the approved details. No alterations to the structure, equipment or machinery shall be undertaken without prior written approval of the local planning authority.
5. Between the Hours of 23:00 – 07:00 the rating level of noise (A) emitted from the agricultural building, as measured at point X on the map attached to planning permission 11/02736/FUL, shall not exceed the existing background noise level. The background noise level has been pre-determined as 35dB, LA90. ((A) = the level of noise shall be measured as an LAeq 1hr between the hours of 23:00 - 07:00. An addition of 5 dB (A) shall be added to the noise A if the noise from the site contains any distinguishable or distinct noise sources.)
6. A noise survey, involving the measurement of noise emissions shall be undertaken not less than once every three years at the application site, unless the time interval for a noise survey has been varied in writing by the local planning authority, following a request from the owner of Rose Cottage, Crayke. The survey shall identify the level of compliance and any breaches of the conditions attached to, and forming part of, this approval. A written report of the findings, identifying the level of compliance shall be submitted to the local planning authority, within 1 month of survey completion.

Annex B

Conditions for Appeal B: APP/G2713/W/16/3153706

1. There shall be no illumination of the development hereby permitted without details having first been submitted to, and approved in writing by, the local planning authority. Thereafter the approved details shall be implemented and retained.