
Appeal Decision

Site visit made on 19 April 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 05 June 2017

Appeal Ref: APP/Y2003/W/17/3166554

Former RAF Kirton in Lindsey, Gainsborough, Lincolnshire DN21 4HY

- 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 Acorn Recyclers against the decision of North Lincolnshire Council.
 - The application Ref WD/2015/0019, dated 30 January 2015, was refused by notice dated 31 August 2016.
 - The development proposed is the change of use of a vacant hangar for the recycling and process of paper and plastics, open storage, and storage of agricultural equipment and produce.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Acorn Recyclers against North Lincolnshire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the development on the living conditions of occupiers of existing and proposed nearby dwellings with particular regard to noise disturbance.

Reasons

Living Conditions

4. With regard to broad context, the appeal site is bounded by a series of former hangars, of similar scale and appearance, situated to the east, the former barracks area to the north and an open airfield to the south. The Council has confirmed that the former barracks area has been allocated for residential development. From the information before me, however, there appears to be no planning permission in place for the redevelopment of this area at the present time.
 5. Given that the Council would be in a position to exercise control over the detailed location of proposed dwellings within this area, in the interests of protecting the living conditions of future occupiers, I conclude that the proposal would not be unacceptable in terms of this relationship.
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6. In terms of existing noise sensitive receptors, there are a number of individual dwellings along the B1398 Road to the west of the site. The Council is specifically concerned about the impact of noise on South Cliff Farm, located along this road to the north-west of the site. There is no dispute between the parties that the Council's suggested planning condition, requiring that noise emitted from all proposed plant and activities on the site should not exceed 35 dB LAeq at any residential boundary, would be appropriate. The difference in opinion between the appellant and the Council and third parties is with regard to whether this would be an achievable requirement.
7. The appellant has produced a noise assessment (NA) in which the predicted emissions arising from the proposed operation of the site have been modelled. The Council and a third party acoustic consultant are at odds with the appellant regarding several aspects of the modelling. Notwithstanding this it is undisputed by the respective noise consultants that a representative background sound level for the locality is 34 dBA L₉₀. Furthermore noise contour information set out in the NA, allowing for acoustic attenuation measures within the hangar, indicates that the sound level at the South Cliff Farm receptor location, with site operations in progress would be 45.2 dB. I have no reason to take issue with these findings.
8. Leading on from this, the appellant proposes to introduce further mitigation measures in the form of an acoustic fence and bund up to 3 metres in height. With such measures in place, the appellant considers that further attenuation of 10 dB would be expected in order to achieve the 35 dB Rating level required by the condition. I have not been provided with any evidence to suggest that the proposed barriers, which could be secured through a planning condition, would not achieve the expected level of attenuation and have no reason to take a contrary view to the appellant in this regard.
9. However, whilst the effectiveness of the bund is not disputed, a key area of difference is over the application of a 6 dB penalty to the sound level, which is necessary to take into account the impulsive characteristics of the noise associated with the proposed waste bailing operation. The appellant states that this penalty has been allowed for at source within the modelling. However, I concur with the third party consultant who states that, in accordance with BS4142:2014 Methods for rating and assessing industrial and commercial sound (BS4142), the noise correction factors should be applied at the receptor location rather than at the source.
10. Accordingly, from the information before me, I cannot rule out that this penalty should be added to the modelled 45.2 dB level at the receptor location (South Cliff Farm). This would then result in a Rating level of 51 dB at the receptor location. This in turn means that with all attenuation measures in place, the mitigated Rating level at 41 dB would still be 7 dB higher than the agreed background level.
11. I am mindful that BS4142 states that a difference of 5 dB or more above the background level is likely to result in an adverse impact. Accordingly I am not persuaded that the appellant has made a compelling case that the proposal would not result in annoyance and disturbance to residents and accordingly would not cause unacceptable harm to their living conditions.
12. As such, my overall finding on the evidence before me is that, notwithstanding the possibility of a condition being imposed, the requisite 35 dB Rating level

would not be achievable in relation to all noise sensitive receptors in the locality, even with attenuation measures in place. I am not therefore persuaded that a condition along these lines would be reasonable to impose because I cannot be satisfied, on the information before me, that there would be a reasonable prospect of that condition being able to be met so that a permission would not effectively be negated.

13. I therefore conclude that the proposal would result in unacceptable harm to the living conditions of occupiers of the nearby property at South Cliff Farm with particular regard to noise disturbance. Accordingly there would be conflict with Saved Policies DS1, DS11 and RD2 (d) of the North Lincolnshire Local Plan 2003 and the National Planning Policy Framework (the Framework) insofar as they seek to protect the living conditions for all existing and future occupants of land and buildings.
14. It has been drawn to my attention that an appeal relating to the development of the adjacent hangars was allowed by the Inspector deciding that case¹. However this was in relation to a different proposal and does not have a bearing on the harm I have found in this case.

Other Matters

15. The appellant has submitted a planning obligation in the form of a signed and dated unilateral undertaking. The effect of this obligation would require the appellant to take steps, including the erection of directional signage on the site and the provision of advice to relevant haulage companies, with a view to ensuring that all HGV traffic associated with the site would be routed away from the village of Kirton in Lindsey. I acknowledge that the Council has not objected to the planning obligation. However, as I have found the proposal to be unacceptable for other reasons, there is no need for me to consider this matter further.
16. I have no information that would lead me to take issue with the points that waste minimisation and recycling would be consistent with national policy and the Council's Core Strategy and would benefit local companies able to transport waste materials shorter distances in the interests of sustainable transport and cost savings. In addition the proposed operation, including storage of materials, would be concentrated within the building, therefore mitigating visual impact and any adverse odour omissions. The development would also result in the re-use of previously developed land and I acknowledge that it would lead to the creation of some jobs.
17. However, in the overall planning balance, the adverse noise impacts I have identified significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the development plan and the Framework. Accordingly, the proposal in this case does not amount to sustainable development and the presumption in favour of such, as set out in the Framework, does not apply.

¹ APP/Y2003/W/16/3161961

Conclusion

18. For the reasons set out above and having regard to all other points raised, including that there have been some representations in support of the development, the appeal should be dismissed.

Roy Merrett

INSPECTOR