
Appeal Decision

Site visit made on 9 May 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 9th June 2017

Appeal Ref: APP/F2605/W/17/3167638

Smithy House, The Green, Gressenhall, Dereham NR20 4DT

- 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 Robin Bunning of G T Bunning & Sons Limited against the decision of Breckland District Council.
 - The application Ref 3PL/2016/1227/VAR, dated 3 October 2016, was refused by notice dated 16 December 2016.
 - The application sought planning permission for the change of use of land to fabricated machinery standing without complying with conditions attached to planning permission Ref 3PL/2016/0361/F, dated 28 June 2016.
 - The conditions in dispute are Nos 2, 3, 6, 7 and 8 which state that:
 - (2) *The development must be carried out in accordance with the application form, and approved documents and drawings as set out below:*
Drawing numbers: 9952 2A dated March 2016
 - (3) *Prior to the commencement of any work on the site, all existing trees shall be protected by the erection of Tree Protection Fencing. This fencing shall be retained throughout the period of the development and at all times when works (as defined below) are being carried out on the site. For the purposes of this condition "work" shall include the storage of plant, materials, site huts or the use of any machinery either for preparatory site work or construction itself. "Trees" shall refer to all trees both on and adjacent to the site. Protective fencing shall be constructed and maintained in accordance with BS5837:2012 and the Council's document Practice Note: Construction and Maintenance of Tree Protection Fencing, which is available to download from the Council's website.*
 - (6) *No trees along the northern boundary of the site shall be lopped, topped, cut down, uprooted, felled, wilfully damaged or destroyed, without the prior written consent of the Local Planning Authority for a period of five years from the first occupation of the development hereby approved.*
 - (7) *The site shall be used solely as machinery standing area and shall not be used for any other purpose within Use Class B8 of the Town & Country Planning (Use Classes) Order 2005 (as amended) nor for any other purpose, without the prior consent in writing, of the Local Planning Authority.*
 - (8) *The development shall only be used for the purpose of storage. No plant or power tools shall be operated and no process shall take place on site.*
 - The reasons given for the conditions are:
 - (2) *To ensure the satisfactory development of the site.*
 - (3) *The works are required to be undertaken prior to the commencement of the development in order to safeguard the protection of trees from the outset of the development, in accordance with Policy DC12 of the Adopted Core Strategy and Development Control Policies Development Plan Document 2009.*
 - (6) *In the interests of the satisfactory appearance of the development.*
 - (7) *In order that the Local Planning Authority may retain control over any future use of the site, in the interest of the amenity of the locality.*
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(8) In the interests of the amenities of nearby residents.

Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission ref 3PL/2016/0361/F was granted on 28 June 2016 to allow the change of use of land from grazing to fabricated machinery standing in association with the existing business of G T Bunning & Sons Ltd who manufacture agricultural machinery. The appellant wishes to remove two oak trees and a section of hedgerow on the northern boundary of the appeal site in order to open up the site to the existing yard, with an enlarged concrete pad. As a consequence, the appellant seeks amendments to Conditions 2, 3 and 6. The Council considers these three conditions are necessary to prevent the loss of important nature features.
3. The appellant has also sought clarification that the loading and offloading of machinery will be possible and has requested amendments to Conditions 7 and 8. The Council considers these two conditions are necessary to safeguard the living conditions of occupiers of neighbouring land and buildings. In the delegated report, the Council clarifies that they allow for the associated loading and unloading of machinery for standing and storage on the site.
4. In their statement of case, the appellant acknowledges this clarification and states that the appeal relates more specifically to Conditions 2 and 6. At the same time, the appellant has not formally confirmed that they are no longer disputing Conditions 3, 7 and 8. Thus, I have taken all five conditions into consideration in this appeal.
5. The Council only has one reason for refusal in its decision notice, which relates to the loss of trees. However, in light of the above background, I consider that there are two main issues as follows:
 - (a) whether Conditions 2, 3 and 6 are necessary in the interests of the character and appearance of the area with regard to trees; and
 - (b) whether Conditions 7 and 8 are necessary and reasonable in the interests of the living conditions of occupiers of neighbouring land and buildings.

Reasons

Character and appearance

6. The appeal site is separated from the manufacturing works to the north by a well-established hedgerow and a number of mature oak trees. This boundary planting helps to screen the existing works from the adjoining countryside. The appeal site is open to the countryside to the west and south, with properties to the east. Earth banks and planting in association with the extant permission has taken place along these three boundaries.
7. The trees along the site's northern boundary are not particularly visible from The Green to the east due to the intervening properties and there are no public footpaths to the south or west. Nevertheless, they form part of a row of trees stretching from The Green to the south-west corner of the existing works, and provide part of a green backdrop to properties on The Green and existing

buildings at the works. As such, they can be regarded as important natural features, including the two trees proposed for removal.

8. Under the extant permission, a relatively narrow gap would exist in the hedgerow to provide access from the works to the appeal site. Given the scale of machinery and vehicles associated with the works, it would appear too narrow for manoeuvring purposes. However, the proposed gap would be considerable, with little information on why it needs to be that wide. There is also little explanation as to why the concrete pad needs to be enlarged, when the approved pad would be sizeable.
9. The variation of Conditions 2, 3 and 6 would result in the loss of two mature tree specimens that form important natural features and part of a green backdrop and screen for the works. Although their removal would be hard to distinguish in public views given the distance and intervening buildings, they would diminish the screening of the existing works from the wider countryside. The provision of four oak trees along the southern boundary of the appeal site would provide compensation for the lost trees, but they would take time to reach maturity as would the other planting along this boundary. In the meantime, it would be important to retain the existing trees to help screen the existing works.
10. The enlarged gap and concrete pad would evidently improve vehicular manoeuvrability and provide additional space for standing and storage, but it has not been demonstrated that the size of the proposed gap is essential and the loss of the trees is unavoidable. A smaller enlarged gap could be provided without the removal of the two oak trees and still deliver the benefits of economic development and investment.
11. Concluding on this main issue, Conditions 2, 3 and 6 are necessary in the interests of the character and appearance of the area with regards to trees. Their variation would not accord with Policy DC12 of the Breckland Core Strategy and Development Control Policies Document which seeks to retain important natural features such as trees. The policy requires exceptional circumstances to be demonstrated where the benefit of development outweighs the benefit of preserving nature features. Such circumstances have not been demonstrated in this instance and it has not been proven that the loss of the two trees is unavoidable.

Living conditions

12. There are a number of residential properties to the east of the appeal site along The Green. Existing noise from the works was clearly audible from The Green during my site visit. It is reasonable to assume that vehicles would need to access the appeal site to load and offload machinery for storage and standing purposes, and there is nothing in either Condition 7 or Condition 8 that would preclude such access. Such vehicular movements would generate relatively little additional noise and would have limited effects on the living conditions of occupiers of nearby properties.
13. Concluding on this main issue, Conditions 7 and 8 are necessary in the interests of the living conditions of occupiers of neighbouring properties, and are reasonable in that they do not preclude the loading and offloading of machinery for storage and standing purposes. Therefore, there is no need to vary either condition.

Conclusion

14. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR