

Appeal Decision

Hearing held on 20 June 2017

Site visit made on 20 June 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: 19 July 2017

Appeal Ref: APP/V0510/W/16/3162856
Rose Barn, Ely Road, Sutton, Ely CB6 2AB

- 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 & Mrs Sid Bibby against the decision of East Cambridgeshire District Council.
 - The application Ref 16/00718/FUL, dated 11 May 2016, was refused by notice dated 8 September 2016.
 - The development proposed is change of use of site to mixed use as landscaping contractors and events venue.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application form describes the proposal as 'part retrospective' in recognition that the change of use of the site has already occurred. The Council consider the landscaping contractors use to be a long-standing lawful use of the site. In contrast, the use of part of the building known as Rose Barn and adjacent outdoor space for events has occurred without the benefit of planning permission, with a number of events having been carried out. An enforcement notice was served by the Council and was appealed by the appellant. However, the notice was withdrawn due to procedural errors and the enforcement appeals stopped. The original application and this appeal seek to regularise the change of use.

Main Issues

3. The main issues are the effect of the development on (a) the living conditions of occupiers of neighbouring properties with regards to noise, disturbance and odour and (b) highway safety.

Reasons

Living conditions

4. Rose Barn is an L shaped building split between the landscaping contractors' office and the events venue. The southern portion of Rose Barn is a large open plan space intended for events. It opens out onto timber decking that covers an area up to the northern and eastern extents of Rose Barn and allows for a
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marquee to be erected for events. Beyond the decking is open outdoor space used in part as a display garden for the landscaping contractors and in part for the events venue. An external cooking area is currently sited next to the shared side boundary with Amberlea Kennels and Cattery. The appellant has indicated that Rose Barn can accommodate up to 100 people.

5. The Amberlea site contains two residential properties as well as a number of dogs and cats. The property nearest to the side boundary with the appeal site, described as the manager's dwelling, has planning permission for residential use according to decision notices and plans provided by the Council at the hearing. From what I saw at the site visit, dogs are kept in kennels that have outdoor as well as indoor space, with a number of kennels close to the shared side boundary.
6. Complaints have been made about noise, disturbance and odour that have arisen as part of previous events held at Rose Barn. These have affected neighbouring occupiers as well as the animals at the Amberlea site. Given the proximity of the appeal site to Amberlea and events of potentially up to 100 people continuing until late evening, this is not unexpected. Although events have been infrequent so far, the concentration of noise and disturbance over a number of hours is likely to have had significant adverse effects on the living conditions of neighbouring occupiers.
7. The key issue is whether sufficient mitigation measures can be put in place to address the adverse effects. In terms of noise and disturbance arising from people and vehicles leaving at the end of the event, the formal layout of parking areas as proposed, and the location of these areas and the Rose Barn entrance away from the adjoining residential properties, would limit adverse effects. Depending on the event and its attendees, there may be a staggered departure helping to spread out any effects.
8. I agree with the main parties that prohibiting external cooking would help to address the negative effects on living conditions relating to odour and smoke, and could be controlled by planning condition. A noise management plan could cover a number of matters including the opening of doors and windows on Rose Barn and the use of fireworks. It would also allow for the monitoring of effects. Restricting amplified music to within Rose Barn with no external music or amplified talking would help to reduce overall noise levels.
9. However, it would not be easy to control other noises in the outdoor space particularly in terms of voices which could be loud and concentrated. The appellant is prepared to limit the number of people attending events to 80, but this would still allow for a considerable number of people focused in the outdoor space near to the shared boundary. The appellant is also prepared to have no more than 20 events per calendar year, limited to Saturdays and Sundays, with only one per calendar week and no more than two per month. However, this would still amount to a significant and regular number of events focused on a number of weekends throughout the year. Restricting the timing of events to around midnight with one exception (for example New Year's Eve/Day) would avoid the most sensitive night-time hours when noise levels are expected to be low, but there would still be overlap with the initial sleeping hours of late evening. I have also had regard to the animals that board at the kennels and cattery and the likelihood that they would be disturbed by a gathering of up to 80 people in the outdoor space.

10. I recognise that established events venues elsewhere might have a similar proximity and relationship to nearby residential properties. However, I am dealing with a change of use where historically such a use has not occurred and where occupiers of the properties at Amberlea have not previously experienced such a use. Given the proximity of the outdoor space to the shared boundary, there would be significant adverse effects on the living conditions of neighbouring occupiers in terms of noise and disturbance that could not be adequately addressed by planning conditions.
11. Concluding on this main issue, the development would have an unacceptable effect on the living conditions of neighbouring occupiers in terms of noise and disturbance. Therefore, it would not accord with Policies ENV2 and ENV9 of the East Cambridgeshire Local Plan 2015 ('the Local Plan'). Amongst other things, these policies seek to avoid significant detrimental effects on the residential amenity of nearby occupiers and minimise noise pollution. The development would also conflict with paragraphs 17 and 123 of the National Planning Policy Framework (NPPF) which seek to achieve a good standard of amenity for all existing and future occupants of land and buildings and avoid noise giving rise to significant adverse effects on health and quality of life.

Highway safety

12. The appeal site is accessed via a private road off the A142 between Sutton and Ely. The site contains a formal parking area in front of Rose Barn and spaces to the rear, including a number that are currently segregated from the yard area of the landscaping contractors use by temporary fencing. The private road also provides access to residential properties either side of the appeal site and Amberlea Kennels and Cattery immediately to the east.
13. The A142 is a busy road with vehicles, including frequent numbers of lorries, travelling at the national speed limit past this point. The private road is relatively wide reflecting its former roles as the old A142 and then subsequently a layby before a formal stopping up order. At the time of my site visit, there were few vehicle movements or vehicles parked along the road. Signage and traffic calming measures have been installed to prevent the private road being used as a rat run by A142 vehicles. The local highway authority highlight that a number of accidents have occurred along this stretch of the A142 in the last five years, including two fatal incidents.
14. The private road has two access points onto the A142, both of which can be used by the appellant. Visibility onto the A142 is reasonable in both directions at both access points, although turning across the flow of traffic is difficult due to the speed and frequency of traffic. The accesses are relatively narrow making it difficult for vehicles to simultaneously enter and leave the A142.
15. The trip statement produced by the appellant demonstrates how the use of the site as an events venue would affect traffic movements and the number of vehicles accessing the site. It is based on events being held at the weekend only. On that basis, traffic movements would avoid the busiest times reducing the risk of conflict between vehicles entering and leaving the A142. Nevertheless, the current widths of the two access points and the intensification of their use at specific times in connection with the events venue does pose a risk to highway safety in terms of the free flow of traffic on and off the A142.

16. As part of the appeal documentation, the appellant has provided drawings indicating improvements to the two access points to increase the width and allow the free flow of two way traffic. The Council and the local highways authority have confirmed that these improvements would resolve the existing limitations with the accesses and would overcome the second reason for refusal. I agree that the improvements would help to mitigate some of the negative effects the development would have on the safety of the highway network. They could be secured by planning condition, where detailed designs could help to address any related effects on flooding and drainage arising from the works. Notwithstanding the evidently dangerous nature of the A142, the improved accesses would reduce the risk to highway safety.
17. The representative from the Amberlea Kennels and Cattery argued at the hearing for only the western access to be used by the appeal site to prevent vehicles passing his site. However, the appeal site is roughly equidistant between the two accesses and traffic can approach and leave the site in either direction. This helps to spread the impact of traffic leaving or entering the A142 and so it is not necessary to limit access to the western point only.
18. In terms of concerns regarding parking and manoeuvring facilities, an excessive number of vehicles parked on the private road would have a negative effect on the free flow of traffic and pose a risk to highway safety. Vehicles reversing out of the appeal site would present a similar risk. At the hearing, it was confirmed by the Council that the relevant parking standard for an events venue as required by Policy COM8 of the Local Plan is one space per 5 people.
19. There was some debate during the hearing about the maximum number of attendees at any one event. The original application sought 100 attendees, but at the hearing the appellant was happy to accept a maximum of 80. In terms of parking provision, these two figures would require 20 and 16 spaces respectively.
20. As part of the appeal documentation, the appellant has provided a scaled drawing indicating 34 parking spaces, utilising the areas to the front and rear of Rose Barn already in place on the site. These spaces would significantly exceed the Council's parking standards and provide adequate turning and manoeuvring facilities to ensure that vehicles leave the site in forward gear. Based on this drawing, the Council and local highways authority have confirmed that it would overcome the first reason for refusal. I concur that it would provide adequate parking facilities for the development and could be secured by planning condition.
21. The parking arrangements do not allow for coaches to park and manoeuvre within the site, which would lead to such vehicles parking on the private road. This would not be ideal, but the private road is relatively quiet and coaches are not likely to be used for every event. Moreover, the access improvements would allow for the free flow of a coach or similar sized vehicles onto and off the A142. Thus, the likelihood of negative effects on highway safety arising from coaches would be low.
22. Concluding on this main issue, the development would have an acceptable effect on highway safety both in terms of access and parking provision. Therefore, it would accord with Policies COM7 and COM8 of the Local Plan which, amongst other things, seek safe access to the highway network and

adequate levels of car parking. There would also be no conflict with the NPPF in terms of providing safe and suitable access to the site.

Other Matters

23. The events venue would help to support the rural economy and allow for the diversification of an existing rural business, both matters that the NPPF encourages. However, the social and economic benefits arising from the events venue would be moderate at best and not outweigh the harm I have identified in terms of the effects on living conditions.

Conclusion

24. While the development would have an acceptable effect on highway safety, it would have an unacceptable effect on the living conditions of neighbouring occupiers with regard to noise and disturbance. For this reason, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Philip Kratz BA (Hons) Solicitor LMRTPI	Birketts LLP
Don Proctor	Don Proctor Ltd
Sid Bibby Junior	Appellant
Sid Bibby Senior	Appellant's father

FOR THE LOCAL PLANNING AUTHORITY:

Julie Barrow MRTPI	East Cambridgeshire District Council
Rebecca Saunt MRTPI	East Cambridgeshire District Council

INTERESTED PARTIES WHO SPOKE AT HEARING:

W.G. Bridges	Amberlea Kennels and Cattery
Councillor Mike Bradley	East Cambridgeshire District Council
Ian Dyer	Cambridgeshire County Council
Geoffrey Ellwood	Cambridgeshire County Council

DOCUMENTS SUBMITTED AT THE HEARING

1. Letter and plan from Cambridgeshire County Council showing the extent of the highway outside Rose Barn maintainable at public expense, submitted by the appellant.
2. Signed and dated Statement of Common Ground between the appellant and the local planning authority, submitted by the appellant.
3. Copy of planning permission Ref 16/00226/FUL and ground floor plan relating to a proposed change of use from a staff facility/office to permanent residence at Amberlea Kennels and Cattery, submitted by the local planning authority.
4. Copy of planning permission Ref 16/01538/FUL and ground floor plan relating to a proposed demolition of part and extension to existing building to provide a new and permanent reception, office and sales area and an additional bedroom within the domestic accommodation at Amberlea Kennels and Cattery, submitted by the local planning authority.