



Appeal Decision

Site visit made on 21 January 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2020

Appeal Ref: APP/X3540/W/19/3237530

Agricultural building south of Lime Tree Barn, Lime Tree Farm Lane, Marlesford, Suffolk IP13 0AE

- 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 Robert Thompson against the decision of East Suffolk Council.
 - The application Ref DC/19/2027/FUL, dated 12 December 2018, was refused by notice dated 5 August 2019.
 - The development proposed is change from agricultural use (grain store) to light industrial use – occupiers propose to use building to fabricate replica gypsy/shepherds huts and garden rooms. Activity limited to part time and hobby basis.
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Decision

1. The appeal is allowed and planning permission is granted for change from agricultural use (grain store) to light industrial use – occupiers propose to use building to fabricate replica gypsy/shepherds huts and garden rooms, activity limited to part time and hobby basis, at agricultural building south of Lime Tree Barn, Lime Tree Farm Lane, Marlesford, Suffolk IP13 0AE in accordance with the terms of the application, Ref DC/19/2027/FUL, dated 12 December 2018, subject to the following conditions:
 - 1) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
 - i) Within 3 months of the date of this decision a scheme for enclosing the circular table saw and the circular bench saw with sound-insulating material so that the sound pressure level of all equipment at the site shall not exceed the level shown in Table 8 of the Noise Impact Assessment Technical Report Ref 32337-R1 prepared by soundsolution consultants at the façade of the nearest noise sensitive receiver at Goat Cottage shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
 - ii) If within 6 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.

- iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 2) All doors shall be kept closed at times when any noise generating activity is being undertaken inside the building.
- 3) Machinery shall be operated, processes shall be carried out and deliveries shall be taken at or despatched from the site only between 09:00 hours – 17:00 hours on Monday to Friday, 09:00 hours – 13:00 hours on Saturdays and not at any time on Sundays or on Bank or Public Holidays
- 4) There shall be no outside working at any time.
- 5) In the event that the use hereby permitted shall cease, all equipment and materials brought onto the land for the purposes of such use shall be removed.

Background

- 2. Based on the evidence before me, the use of the agricultural building ceased in 2015 and the change to light industrial use began around 1 year ago. I have therefore determined the appeal on the basis of the change of use that has already been instituted.

Main Issue

- 3. The main issue is whether the light industrial use of the building is appropriate with regard to its accessibility to a sustainable settlement.

Reasons

- 4. The Council states that the building is 242 metres from the Physical Limits Boundary of Marlesford (as the crow flies) but it is around 1 km away when travelling by local roads. The site is therefore in the countryside. The building is accessed from Lime Tree Farm Lane, which also serves residential properties.
- 5. Policy DM13 of the Suffolk Coastal District Local Plan Core Strategy & Development Management Policies Development Plan Document July 2013 ('LP') sets out 6 criteria in respect of the re-use and conversion of redundant buildings in the countryside. The Council is satisfied that the development accords with criterion (a) – (e), however it states that the development is contrary to criterion (f). Criterion (f) states "*in the case of an employment use, the business should be of a scale appropriate to its location, and preferably provide jobs and/or services for the local community. It should also be well related to sustainable settlements*".
- 6. The agricultural use of the building ceased in 2015 and the business that currently operates at the premises benefits the rural economy through the provision of jobs and services. The footprint of the building, at approximately 198 square metres, is modest and therefore the business is of a scale that is appropriate to its countryside location.

7. The Council states that there is concern that the site would not stay as a hobby and there is a chance that it could become intensive. Nevertheless, the appellant has applied for a light industrial Class B1 use, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise etc¹. The appellant has not applied for a more intensive general industrial Class B2 use.
8. Journeys from the appeal building are likely to be by private car due to the travel distance to Marlesford and the absence of footways and street lighting. However, paragraph 84 of the National Planning Policy Framework (the Framework) states that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. Furthermore, paragraph 83 supports the conversion of existing buildings to encourage the sustainable growth of all types of business in rural areas.
9. The development has brought into use a redundant building and has therefore provided an economic benefit to the rural economy. No external changes to the building are proposed, which has minimised the environmental impact of the development, and the modest scale of the business is sensitive to its surroundings. Furthermore, there is no evidence before me to indicate that the business has caused a significant increase or change in the nature of traffic from the appeal site compared to the previous agricultural use. In this respect, the highway authority has commented that the proposal is unlikely to have any impact on the highway network in terms of vehicle volume or highway safety. I see no reason to take a different view.
10. For the above reasons, I conclude that the light industrial use of the building is appropriate with regard to its accessibility to a sustainable settlement. The development therefore accords with Policy DM13 of the LP, which, amongst other things, states that employment use should be of a scale appropriate to its location, preferably provide jobs and/or services for the local community and be well related to sustainable settlements. It is also supported by paragraphs 83 and 84 of the Framework, which seek the sustainable growth of all types of business in rural areas.
11. The Council's statement refers to policies of the emerging Suffolk Coastal Local Plan Final Draft Plan January 2019, which was submitted to the Secretary of State for examination on 29 March 2019. However, I attach limited weight to the emerging policies as details of the level and significance of any unresolved objections have not been provided to me. The policies do not have the same statutory force accorded to adopted policies under s38(6) of the Planning and Compulsory Purchase Act 2004. In respect of the matters that are relevant to the appeal, the emerging policies do not have any significant bearing on my decision.

Other Matters

12. I have had regard to the comments made by a local resident and Marlesford Parish Council, which state that nuisance has been caused by working on the site in the recent past, both in terms of noise and weekend working. The Parish Council is not confident that effective monitoring of the site would be

¹ See the Town and Country Planning (Use Classes) Order 1987.

- undertaken or that any enforcement would be carried out in the case of infringements.
13. This matter has been considered in the officer's report. Whilst the agricultural use of the building as a grain store halted in 2015, the resumption of the previous use has the potential to cause noise and disturbance through the use of agricultural machinery. In respect of the current light industrial use, the appellant's noise impact assessment² shows that use of the circular table saw and the circular blade saw causes an adverse impact on the nearest noise sensitive receptor at Goat Cottage when compared to the background sound level.
 14. However, the noise impact assessment identifies attenuation measures to mitigate the effect of noise from the light industrial use on neighbouring residential properties. Amongst other things, this includes the provision of localised noise control around the circular table saw and the circular blade saw. In context of the previous agricultural use and the proposed mitigation measures, the development would not cause a significant increase in noise and disturbance to neighbouring residential properties.
 15. I am satisfied that the proposed mitigation measures, as set out in the conditions section below, would be enforceable should a breach of the conditions occur.
 16. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. Paragraph 193 of the Framework states that "*great weight should be given to the [designated heritage] asset's conservation*". The appeal site is located within the Marlesford Conservation Area. The nearby properties at Goat Cottage, Lime Tree Barn and Lime Tree Farm House are identified as unlisted buildings that make a positive contribution to the Conservation Area.
 17. The proposal includes no external changes to the building and therefore it has not caused harm to the character and appearance of the Conservation Area or the unlisted buildings. Furthermore, level of noise and activity associated with the light industrial use would not harm the character of the Conservation Area when compared with the previous use as an agricultural building.

Conditions

18. The Council has suggested 8 conditions which I have considered against the Framework and the advice in Planning Practice Guidance, amending where necessary in the interests of clarity and precision.
19. The suggested conditions relating to time limit for implementation of the development and approved plans are not necessary because the change of use has already been instituted. The suggested materials condition is not necessary because no external alterations are proposed.
20. In order to protect the living conditions of neighbouring residential properties, I have imposed a condition to require the submission of a scheme for enclosing the circular table saw and circular bench saw with sound-insulating material. This is to ensure that the sound pressure level at the façade of the nearest

² Noise Impact Assessment Technical Report Ref 32337-R1 prepared by soundsolution consultants

noise sensitive receiver at Goat Cottage would not exceed that shown in Table 8 of the noise impact assessment, which would prevent an adverse impact on the living conditions of the occupiers of neighbouring properties.

21. Conditions requiring all doors to be kept closed during noise generating activity; restricting hours of operation and deliveries; preventing outside working; and removal of equipment and materials on cessation of the use, are necessary to protect the living conditions of the occupiers of neighbouring properties.

Conclusion

22. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed and planning permission be granted subject to the conditions.

C Osgathorp

INSPECTOR