



Appeal Decision

Site visit made on 11 February 2020

by D. Szymanski, BSc (Hons) MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd March 2020

Appeal Ref: APP/Y2620/W/19/3239241

Wheelwrights, The Street, Sustead, NR11 8RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Temperton of Wild Boar Properties Ltd. against North Norfolk District Council.
 - The application Ref: PF/19/0603, is dated 8 April 2019.
 - The development proposed is change of use of a former scaffold yard to a self-storage facility (B8 Storage) including installation of storage containers & office/welfare unit and laying out of storage compounds.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal has been submitted due to the failure of the Council to give notice of its decision within the prescribed time period. The Council has subsequently indicated that it would have refused the application for the following reasons:
 - 1) In the opinion of the Local Planning Authority the scale of the proposed development in terms of number of storage containers in the compound in combination with lighting and the nature of the use would result in noise and disturbance from general activity and comings and goings that would be harmful to the residential amenity of occupiers of nearby dwellings. The proposal is therefore contrary to adopted Core Strategy Policies EN4 and EN13.
 - 2) In the opinion of the Local Planning Authority the proposal is for a new business in the area designated as Countryside. It has not been demonstrated that the proposal requires rural location or there is a particular environmental or operational justification as to why it should be located in the Countryside. The proposed development is therefore contrary to policies SS1 and SS2.
3. I have noted the Council's concerns in considering the main issues.

Main Issues

4. The main issues are:

- whether the proposed development would be in a suitable location, with particular reference to planning policies concerned with business uses in rural areas; and,
- the effect of the proposed development upon the living conditions of the occupiers of neighbouring residential properties in respect of light, noise and general disturbance.

Reasons

Policies for business uses

5. The appeal site is located in the countryside on the south west side of a small group of mainly residential properties forming part of the village of Sustead, on a junction of two rural roads. The site effectively comprises two parts. The northern half of the appeal site benefits from an Established Use Certificate for a building and construction business and is understood to have been used as a scaffolders yard until 2016. At my visit there were buildings, structures and paraphernalia consistent with this use. It is understood that the use as a scaffolding yard has been in existence for a considerable period of time and does not have controls such as hours of use.
6. The southern part which makes up around half of the proposed new storage space, obtained permission for an extension to the scaffolding yard in 2009. There are no records before me of the permission being implemented or condition 2 being complied with (requiring parking and circulation be demarcated prior to use). The Council suggests this permission has lapsed. This area was heavily vegetated by trees and shrubs and there was some waste present on part of the area. There did not appear to be a parking and circulation area. I have been offered little conclusive evidence the permission was implemented. On the basis of the evidence before me, the 2009 development is not a lawful fall-back position available on this land. Consequently, the development would result in a significant extension in the countryside.
7. The Council officer report suggests that should the same application for the 2009 development be submitted, given the provisions of Policies SS2 and SS5 of the North Norfolk Local Development Framework Core Strategy (2008) (the NNCS), the Council would be likely to approve it. However, this is advice from officers and not a decision of the Council. Paragraph 83 of the National Planning Policy Framework (2019) (the Framework) might lend some support to such a development. However, this appears to relate to existing rural businesses. Furthermore, a decision would have to have regard to other policies of the Framework and the development plan that could result in a development not being considered acceptable. On this basis, I attach only limited weight to the suggestion that a new extension to the scaffolding yard would be likely to be approved.
8. Policy SS 1 of the NNCS, sets out the spatial strategy for the district. It defines a settlement hierarchy with the aim of directing most development to the district's larger settlements and most sustainable settlements, and lesser amounts to lower tiers in the hierarchy. Sustead falls within the lowest tier of

this hierarchy, being defined as countryside, where development is restricted to particular types. The types of development acceptable in principle in areas designated countryside are listed under policy SS2 of the NNCS.

9. Policy SS2 states that in the countryside development will be limited to that which requires a rural location and is for (amongst other things) extensions to existing businesses, new-build employment generating proposals where there is particular environmental or operational justification, and the re-use and adaptation of buildings for appropriate purposes. Proposals that do not accord with the requirements will not be permitted. The development is not for an existing business. There is no environmental or operational justification advanced for the development needing to be in this location. The existing site buildings are not proposed to be adapted or reused, with a number of new containers proposed. Therefore, the development does not accord with Policy SS2.
10. For the reasons set out above the proposed development would conflict with and result in significant harm having regard to Policies SS1 and SS2 of the NNCS. These policies seek to protect and restrict new development in the countryside, and direct new development to the most sustainable locations in accordance with the spatial strategy.

Living conditions

11. The appeal site is in a relatively tranquil setting with the primary background noise being from vehicles passing on the highway. Although the northern part of the yard appears not to have been in use since 2016, the Council officer's report advises a scaffold yard use could re-commence at any time.
12. The site entrance, circulation space and parking area would adjoin the south and western side of the gardens of three dwellings (understood to be Wendy Cottage, Forge Cottage and Rosedale). The area for the storage containers and a small part of the open compound area would adjoin the side of one of the gardens and the rear garden of another, from which it is separated by a thick and mature hedgerow. Due to the proximity in relation to the appeal site, the occupiers of these properties could be particularly susceptible to noise from the appeal site.
13. A traffic comparison note (TCN) suggests the scaffolding business generated 38 movements per day (mostly in the mornings and late afternoons). The TCN suggests there would be 7 two-way trips from the proposed development. However, the TCN refers to this being based upon 222 square metres and therefore does not appear to include the compound areas. The compound areas appear around twice the storage space of the container floorspace, which could therefore increase the predicted trips considerably from that suggested.
14. The TCN also states, additionally 1 trip would be attracted by the development during each peak hour. It is not clear whether these are additional movements above those already stated. The Highway Authority advises the impact to the public highway is likely to be similar from the new business, to that of the previous business. On this basis and the overall amount of new storage space proposed, I have doubts that the suggested 7 two-way trips would be correct for the proposed new development, and that the trips generated would be likely to be of a similar level to the previous use.

15. The previous scaffold yard could have resulted in noise and disturbance due to the poles being of tubular metal construction and the loading and unloading of scaffold poles. Noise from the comings and goings of employees and goods vehicles, would also have generated some noise. This would mostly occur (but not be restricted to) first thing in the morning or later in the afternoon.
16. There would be noise from the proposed use which could include opening and closing of containers and doors and moving plant, materials or items, and noise from vehicles. The duration and frequency of this during the opening hours would not be restricted, and there is no detailed formal noise assessment before me. I have considered the planning conditions suggested by the Council and agreed by the appellant. Those conditions include proposed hours of operation, restricting reversing alarms, restriction of on-site activities, and an acoustic barrier, which would provide some mitigation. On the basis of the proposed use and suggested conditions, overall, the noise would be likely to be less obtrusive noise than would be generated by a business that moved large quantities metal poles. Overall, there would be likely to be a limited reduction in noise and general disturbance compared to the previous scaffolding use.
17. It appears that lighting of sufficient intensity for operational safety purposes would only be required during operational hours. Given the proposed hours of the use and the positions of the storage containers/areas, subject to the planning conditions put forward, lighting could be controlled sufficiently to ensure there was no harm to the living conditions of the occupiers of nearby dwellings.
18. For the reasons set out above, subject to the suggested planning conditions being imposed, the proposed development would be likely to result in a limited overall reduction in noise compared to the lawful use, compared to the previous use. The proposed development would not be likely to result in harmful living conditions to the occupiers of nearby residential properties with reference to noise or light pollution. Therefore, the proposed development would not conflict with Policies EN4 and EN13 of the NNCS. Amongst other things, these policies require that development should not have a significantly detrimental effect on the residential amenity of nearby occupiers and minimise noise and light pollution.

Other Matters

19. The Preliminary Ecological Assessment suggests there is the opportunity for native species planting and the provision of bat/bird boxes which would be beneficial. However, the proposals require some considerable vegetation clearance from the southern part of the site. This would suggest the overall ecological benefits would be likely to be small. The proposed development would generate employment for one part-time employee, which is a small benefit. However, the suggested benefits do not mitigate or outweigh the harm from the conflict with Policies SS1 and SS2 set out above.
20. I note the appellant's frustration following the previously refused application, pre-application advice and discussions to resolve concerns, the duration the application has taken to consider, and the officer's positive recommendation for the application. However, I have determined the development before me on its own merits.

Conclusion

21. The proposed development would result in conflict with and significant harm in respect of Policies SS1 and SS2 of the NNCS. Whilst there would be likely to be a limited benefit in terms of reduced noise levels compared to the previous use, and small benefits in terms of employment and ecology, these benefits do not outweigh the significant harm I have found in respect of Policies SS1 and SS2. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR