



Appeal Decision

Hearing Held on 4 February 2020

Site visit made on 4 February 2020

by Mr K L Williams, BA, MA, MRTPI

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

Decision date: 05 March 2020

Appeal Ref: APP/Y2620/C/19/3223988

Land at Granary Works, Honing Road, Dilham, North Walsham, NR28 9PR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr C Purkiss against an enforcement notice issued by North Norfolk District Council.
- The enforcement notice, ref: ENF/18/0046, was issued on 5 February 2019.
- The breaches of planning control as alleged in the notice are:
 - (i) A material change of use from B1 light industrial to car repairs (sui generis);
 - (ii) The erection of a compound fence;
 - (iii) The stationing of a shipping container.
- The requirements of the notice are to:
 - (i) Permanently cease all activities on the Land associated with the car repair business.
 - (ii) Remove all waste, car parts and tools in relation to the car repair business from the Land.
 - (iii) Permanently remove the compound fence from the Land.
 - (iv) Permanently remove the shipping container from the Land.
- The period for compliance with the requirements is 4 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended. The application for planning permission deemed to have been made under section 177(5) of the Act as amended also falls to be determined.

Summary of Decision: The appeal fails. The enforcement notice is varied and upheld.

Preliminary Matter

1. The Hearing was adjourned on 4 February 2020 and was formally closed in writing by email dated 20 February 2020.

The Enforcement Notice

2. At the Hearing the Council confirmed withdrawal of the allegation of a breach of planning control in respect of the erection of a compound fence. The enforcement notice will therefore be varied to remove reference to the fence from paragraphs 3, 4 and 5. The fence is therefore not addressed further in this decision. The enforcement notice alleges a material change of use and its first requirement should be the cessation of the alleged use. This matter was discussed at the Hearing and the notice can be varied accordingly without injustice to the main parties, as set out in the Formal Decision.

Background

3. The appeal site is to the west of Honing Road. A substantial part of the site is taken up by a large building of an industrial appearance. There is parking for customers cars and other vehicles on the north side of the building and an area for storage to the east of it. A grassed area with trees takes up the western part of the site. Access into the site is from Honing Road. It is shared with 6 dwellings, which are to the south of the appeal site. The shipping container is positioned near the south-east corner of the site.
4. In 2006, planning permission 20051974 was granted for the change of use of the building from agricultural to B1 (Light industrial). The previous occupiers, a metal fabrication business, later left the site. Mr Purkiss has occupied it for his car repairs business since early in 2018.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

5. The deemed planning application to be determined is for the change of use to a car repairs (sui generis) use and for the stationing of the shipping container. Mr Purkiss would not object to the removal of the shipping container and I take that into account. The main issues are the suitability of the use for a countryside location and the effect of the development on the character and appearance of the surrounding area. There is a degree of overlap between these issues and they are considered together.

Assessment

6. The appeal site is on the edge of the village of Dilham. It is within the countryside as designated in policy SS1 of the North Norfolk Local Development Framework Core Strategy (CS), dated September 2008. That document incorporates development control policies. Policy SS2 limits development in areas designated countryside to that which requires a rural location and falls with specified development types. They include some types of employment related development and the re-use and adaption of buildings for appropriate purposes. Policy EC2 says that the re-use of buildings for non-residential purposes will be permitted in accordance with policy criteria. Of relevance to this appeal are the requirements that economic uses must be appropriate in scale and nature to the location and that the building must be soundly built and suitable for the use proposed. The development must also be in accordance with other policies, including those protecting amenity and the character of the area.
7. A car repairs use is not one that necessarily requires a rural location. There are numerous representations in support of the appellant, many of them referring to the advantage of having such a business in the village. However, that is not the same as a need for the use to be in a rural location and there is another car repairs business not too far from the appeal site. Mr Purkiss explains that he has found it difficult to find a site over a long period, having no option but to leave a site in North Walsham. It was to be developed for housing. On the other hand, the Council cites allocations of land in nearby towns, including North Walsham and Stalham, although Mr Purkiss says that these allocations have not yet been developed.

8. Having regard to the above, the development conflicts with policy SS2. The Council's Core Strategy was published well before the National Planning Policy Framework, (the Framework), the latest version of which is dated February 2019. Framework paragraph 80 says that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Amongst other things, paragraph 83 says that planning policies and decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, both through the conversion of existing buildings and well-designed new buildings. The Framework's approach does not require the demonstration of a need for a rural location. To that extent CS policy SS2 is not fully consistent with the Framework. I give moderate weight to the conflict with that policy.
9. Turning to policy EC2, the building appears to be soundly built and Mr Purkiss has found it suitable for his business. Other criteria concern whether the use would be suitable in scale or nature for its location and whether the character of the area would be protected. Framework paragraph 84 recognises that sites to meet local business and community needs in rural areas may be adjacent to or beyond existing settlements. However, it goes on to say that such development should be sensitive to its surroundings.
10. Although there is an existing planning permission on the site for a light industrial use (B1), there is no evidence submitted that such a use is likely to be resumed should this appeal fail. The car repairs business has been successful. Mr Purkiss explains that it is growing, serving local customers and others, including agricultural businesses. This is likely to be an intensive use of the site, generating considerable activity, vehicle movements and a degree of noise. There is only limited development near to the site, including the 6 dwellings to the south, which are barn conversions. There is open, agricultural land to the west, east and north. The Council refers to the particularly quiet character of the area, with low levels of ambient noise. From what I saw of the site and its surroundings, I find that to be credible. The intense activity likely to be associated with the car repairs use on this site would be incongruous within this setting.
11. The use of the access onto Honing Road by vehicles related to the business is likely to be considerable. It is in addition to vehicle movements resulting from 6 dwellings served by that access. Some local residents refer to conflicting traffic movements around the entrance to the site. Visibility to the right for drivers emerging onto Honing Road is limited by the deciduous roadside hedge along the site's eastern boundary. The hedge is also likely to limit the ability of drivers approaching from the south to see vehicles coming out of the site onto Honing Road.
12. I share the Council's view that, if planning permission was granted, a condition would be required for highway safety reasons. It would ensure no vegetation exceeded 0.4 metres in height along most of the eastern boundary to the site. The area is characterised by deciduous roadside hedges and trees and this hedge is an attractive feature. It also assists in screening some views towards the site from Honing Road. Its loss, or reduction to 0.4 metres, would be harmful to the character and appearance of the area. Having regard to the above, the development conflicts with policy EC2, in addition to the conflict with policy SS2. It is not well suited to this countryside location and results in harm to local character and appearance.

13. The development brings some benefits. It re-uses an existing building and gives a degree of economic benefit, including approximately 4 jobs. The representations in support of the appellant, together with the evidence of Mr Purkiss and Ms Adams at the Hearing, suggest that the business provides a valued service for some in the local community. Mr Purkiss also refers to other sites which he has pursued without success. However, he has not submitted any systematic assessment of the availability of sites in the surrounding area.

Other matters

14. The Council has suggested a range of planning conditions. They were discussed at the Hearing and could be imposed if planning permission was granted. Subject to those conditions, the development would not be unacceptable with regard to its effect on residential amenity.
15. Mr Purkiss is concerned about aspects of Council's handling of his planning application, including aspects of the investigation of the breach of planning control and of the Development Committee's consideration of his subsequent planning application. These are not matters for me to address in considering the planning merits of this appeal. I do not attach weight to them.

The Overall balance on ground (a) and the deemed planning application

16. The benefits resulting from the development do not outweigh the conflict with development plan policies and the harm resulting from the car repairs use of this site. The appeal should not succeed on ground (a) and planning permission should not be granted.

The Period for Compliance

17. The enforcement notice gives a period of 4 months for compliance with its requirements. They include ceasing the use and removing related waste, car parts and tools from the site. The appellant did not appeal on ground (g) but was not professionally represented in his appeal. I have therefore considered whether 4 months is a reasonable period. Ceasing the use could be done quickly. However, removing the container and all the related tool, plant and equipment would take some time. In addition, Mr Purkiss has explained the difficulties he has had in finding a site for his business. An extended period would assist with that process. Extending the period would also prolong the harm resulting from the use. Nevertheless, a period of 4 months is unreasonably short. The notice will be varied to extend it to 6 months.

Overall Conclusion

18. Having regard to the above and to all other matters raised the appeal should not succeed. The enforcement notice should be varied and upheld.

Formal Decision

19. It is directed that the enforcement notice be varied as follows:
- i) At paragraph 3 by the deletion of "(ii) The erection of a compound fence" and by the renumbering of (iii) to read (ii).
 - ii) At paragraph 4 by the deletion of the words "erection of a boundary fence and".

- iii) By the replacement of the words at paragraph 5(i) with the words "Cease the use of the land for a car repairs (sui generis) use."
 - iv) At paragraph 5 by the deletion of "(iii) Permanently remove the compound fence from the Land" and the renumbering of (iv) to (iii).
 - v) At paragraph 7 by the replacement of "4 months" with "6 months"
20. The appeal is dismissed. The enforcement notice is varied as set out above and is upheld.

K Williams

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr C Purkiss	The Appellant.
Ms Gail Adams	Local resident.

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Reuben	Senior Planning Officer.
Mr K Peacock	Planning Enforcement Officer.
Ms D Romaine	Environmental Protection Officer.

INTERESTED PERSONS:

Mr I Warner	Vice-chairman, Dilham Parish Council.
Mr K Bowman	Local resident.
Mrs G Bowman	Local resident.
Ms Bowles	Local resident.

DOCUMENTS SUBMITTED AT THE HEARING

- 1) Copy of site layout plan showing position of container.
- 2) Copy of planning application report PF/18/0606.
- 3) Copy of committee minute for PF/18/0606.
- 4) Copy of planning permission 01 20051974.