



Appeal Decisions

Site visit made on 4 February 2020

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2020

Appeal A: APP/W3710/X/19/3221543

Woodlands Farm, Ansley Road, Robinsons End, Nuneaton CV10 8LR

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Mr Andrew Jelly against the decision of Nuneaton & Bedworth Borough Council.
 - The application Ref: 035536, dated 28 March 2018, was refused by notice dated 30 July 2018.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is the use of an agricultural barn and apron for storage purposes (use class B8).
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Appeal B: APP/W3710/W/19/3237196

Woodlands Farm, Ansley Road, Robinsons End, Nuneaton CV10 8LR

- 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 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 Andrew Jelly against Nuneaton & Bedworth Borough Council.
 - The application Ref: 036129 is dated 17 January 2019.
 - The application sought planning permission for the continued use of barn for parking 2 HGVs without complying with conditions 1 and 3 attached to planning permission Ref: 012403, dated 21 May 2018.
 - The conditions in dispute are Nos 1 and 3 which state:
 - 1) The Heavy Goods Vehicles shall not manoeuvre to and from the site other than between the hours of 07:00 and 17:00 Monday – Friday (with the exception of Bank Holidays and only in emergency on Saturdays).
 - 3) Only two HGV's may be stored on site in compliance with condition 2 of this permission.
 - The reason given for both conditions is 'To protect the residential amenity of surrounding properties'.
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Appeal C: APP/W3710/W/19/3237197

Woodlands Farm, Ansley Road, Robinsons End, Nuneaton CV10 8LR

- 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 Jelly against Nuneaton & Bedworth Borough Council.
 - The application Ref: 036374, is dated 2 May 2019.
 - The development proposed is the change of use from former agricultural building (sui generis use) to storage (Class B8).
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is allowed and planning permission is granted for continued use of barn for parking of 2 HGV's at Woodlands Farm, Ansley Road, Robinsons End, Nuneaton, Warwickshire CV10 8LR in accordance with the application Ref: 036129, dated 17 January 2019 without compliance with condition numbers 1 and 3 previously imposed on planning permission Ref:012403 dated 26 March 2008, and subject to the following conditions:

1. The Heavy Goods Vehicles shall not manoeuvre to and from the site other than between the hours of 06:00 and 18:00 Monday to Friday (and not at any time on Sundays and Bank Holidays) and only in an emergency on Saturday.
2. The use hereby permitted shall not take place anywhere on the site except within the building marked Haybarn on the approved plan.
3. Up to four HGV's may be parked within the Haybarn on the approved plan (for the avoidance of doubt this is the building outlined in red on the site location dwg 2018/10-01/001).
4. Unless within 3 months of the date of this decision a scheme for ventilation of the bedrooms of receptor R1 in accordance with the recommendations of the Noise Report May 2019, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 4 months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

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

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.

Appeal C

3. The appeal is allowed and planning permission is granted for the change of use from former agricultural building (sui generis use) to storage (Class B8) at Woodlands Farm, Ansley Road, Robinsons End, Nuneaton, Warwickshire CV10 8LR in accordance with the terms of the application, Ref: 036374, dated 2 May 2019, subject to the following conditions:

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 2019/03-06/001 and Existing visibility splays VC0284 Drwg No 001.
3. No parking of vehicles ancillary to the use hereby permitted shall take place within the cross hatched area of the appeal site shown on the plan attached to this decision.
4. No storage of any goods or materials in relation to the use hereby approved shall take place outside the building.
5. Deliveries or storage items shall be taken at or despatched from the site only between 07:00 and 18:00 on Mondays to Fridays, and not at any time on Saturdays, Sundays or on Bank or Public Holidays.
6. No shrubs, trees or other vegetation shall be allowed to grow above 1 metre in height within the sight lines detailed in the plan entitled Existing visibility splays VC0284 Drwg No 001.

Application for costs

4. An application for costs was made by Mr Andrew Jelly against Nuneaton & Bedworth Borough Council. This application is the subject of a separate Decision.

Appeal A

Preliminary matters

5. An LDC application must relate to a specific existing or proposed use, operation or activity. Whilst section 191(5)(b) states that where a use is within a class in the of the Town and Country Planning (Use Classes) Order 1987 as amended (UCO) it should be identified by reference to that Class, this does not mean a certificate should be issued simply for a class of use. The exact terms of the LDC and the development specified will be the base from which it will provide a datum against any subsequent change that may need to be assessed and thus whether it is permissible under the UCO or the Town and Country (General Permitted Development)(England) Order 2015 (GPDO) provisions, for example if the UCO classes are changed. The LDC should describe the actual use and refer to it as being within the appropriate use class.
6. The description of Appeal A is taken from the application form. I note that the Council changed the description, without agreement, to 'commercial storage purposes'. I will determine the appeal on the basis that it is seeking an LDC for storage purposes, falling within Class B8 of the UCO.

Main issue

7. The main issue in this case is whether or not the Council's refusal to grant a certificate of lawful use or development for the use of an agricultural barn and apron for storage purposes (use class B8) was well-founded.

Reasons

8. In an appeal relating to an LDC, the burden of proving relevant facts rests with the appellant and the test of the evidence is the balance of probabilities. It is for the appellant to prove that the agricultural barn and apron were used for storage purposes (use class B8) more than ten years before the date of the application and that the use has continued without material interruption since that date. The relevant date in this context is 28 March 2008.
9. The appellant's own evidence does not have to be corroborated by 'independent' evidence. If there is no evidence to contradict or otherwise make the appellant's version of events less than probable, the appellant's evidence alone may be sufficient to justify the grant of a certificate. This is provided that it is sufficiently precise and unambiguous.
10. The appeal building comprises a modern agricultural barn, which previously was used for housing livestock, with a concrete apron also within the appeal site. The building is constructed on a timber frame with timber boarding to the walls and steel profiled sheeting to the walls and gates. The central bay has a taller pitched roof with lower pitched roof bays either side. The entrance is via gated openings on its eastern side.
11. The appeal building is to the north/rear of Woodland Cottage Farm (a dwelling also referred to as Woodland Farm) and adjacent to brick barns that have been converted to residential dwellings. To the south west is a Haybarn. There is a shared hard surfaced vehicle access and yard area. To the north and western sides of the appeal site is agricultural land. This agricultural land is within separate ownership.
12. The building referred to as a Haybarn is used for the parking of 2 HGV vehicles and is the subject of Appeal B. Planning permission having been granted in May 2008 for this use. This is used to store tankers used for the collection and disposal of waste (sewage) from residential and commercial properties. This commercial activity is undertaken by the appellant.
13. The appellant purchased Woodland Farm comprising the yard, modern farm buildings, brick barns and farmhouse in November 2007. The agricultural use of the appeal site ceased at that time. The statutory declaration of the appellant (SD1) states that since the purchase the appeal site i.e. the building and the apron the subject of this appeal, has:

'been used for the storage of domestic items. Machinery, timber, reclaimed metal piping, tyres and other chattels. In more recent years, a chipping machine to provide fuel for wood burners in the residential units at the Property has been sited within the building.'

The concrete apron to the east of the building is used for access to the building and is stated to have been used for storage. SD1 states that the site, comprising the building and the concrete apron, has been continuously used as described without a material break in its use as such.

14. The statutory declaration of the previous owner's son (SD2) states that there is a right of access retained by the previous owners. This crosses from Ansley Road to the agricultural land to the west of the appeal building. SD2 states

that he has stored some vehicles on the site since the property was purchased by the appellant.

15. The appellant's agent expands on SD1 by stating the building has been used for a mixture of storage of various domestic and non-domestic items including commercial machinery and vehicles owned by the appellant. He refers to various materials being stored including concrete blockwork and hardcore, timber and plastic piping, along with the storage and ancillary chipping of wood pallets for use as fuel. The appellant's agent states that the storage has been largely for the personal gain of the appellant. A vehicle (a classic tractor), owned by the son of the former owner of Woodland Farm (the author of SD2), who works on the land to the north and west of the building, is also stored in the building. However, the agent's evidence is not in the form of a Statutory Declaration and therefore has less weight than that of the evidence contained within SD1 and SD2. The agent's evidence appears to expand and reinterpret what is within SD1 and SD2.
16. The Council consider that the majority of goods are the owner's own materials and are referred to as 'chattels' which could be stored in a domestic garage. It considers the issue is whether the materials quoted, including hard core, are goods that would be considered 'B8 storage' rather than goods used within the residential curtilage. The Council conclude by stating the proposal does not demonstrate, on the balance of probabilities, that there has been a material change of use for commercial B8 storage of either the barn or apron. The covering letter sent with the decision notice on the application states that the evidence provided is insufficient to prove on the balance of probability that the premises have been used continuously for the purposes of storage and distribution within Class B8 of the Order. It goes on to state that the evidence presented suggests that the primary use of the barn has been for the storage of personal possessions and chattels rather than commercial storage.
17. Various aerial photographs are referred to by the appellant's agent. These provide some support for how the apron area was used at the time of the photograph. However, they do not add to the understanding of the internal use of the building over the period of the photographs. I accept that the apron functions as the entrance area to the building and on occasions it has been used for storage of hardcore. The purpose of the hardcore is unclear.

Planning Unit

18. The concept of a material change of use is not defined in statute or a statutory instrument. It is a question of fact and degree in each case. For there to be a material change of use there needs to be some significant difference in the character of the activities from what has gone on previously. It is an objective test. The concepts of the planning unit and primary and ancillary uses are fundamental in this assessment.
19. To assess whether there has been a material change of use it is necessary to consider what the correct planning unit, and the present and previous primary uses of that unit are. The leading case, on the subject of planning units, is *Burdle and Williams v SSE and New Forest DC* [1972] 1 WLR 1207. The tests laid down in that case were:

1. Whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit of occupation should be considered;
 2. It may be equally apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another.
 3. Within a single unit of occupation two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes. In such a case each are used for a different main purpose (together with its incidental and ancillary activities) and ought to be considered as a separate planning unit.
20. The appeal building is part of a wider site which was once operated as a farmyard and dwelling with the surrounding agricultural land. In my view, it was likely to be a mixed-use planning unit comprising residential and agriculture.
21. In November 2007 the farmyard and farmhouse were separated from the agricultural land and the agricultural use of the modern farm buildings and brick-built buildings ceased. Since that time planning permission has been granted for the use within the Haybarn and the residential conversion of the brick-built barns. It is not clear on the basis of the evidence whether or not there is one planning unit comprising the farmyard, buildings and dwellinghouse, in a mixed use with primary and ancillary uses or whether there are separate planning units for the converted barn complex, the Haybarn and the remaining yard, dwellinghouse, garden, other land and the appeal building and apron. The access and circulation spaces appear shared for all uses, but this is not definitive. What is clear is that the planning unit has changed since the farmyard and dwellinghouse were separated from the agricultural land, as have the uses on the site.
22. The appellant has referred to appeal decision APP/M0933/X/12/2184048 in support of any storage use falling within Class B8 of the UCO. I accept that Class B8 of the UCO is not limited to commercial storage and as long as the storage use is the primary use within a planning unit then it could be a Class B8 use.
23. The use of the appeal building, and apron is clearly materially different from its previous agricultural use. On the evidence available in SD1 the stated use of the appeal barn and apron is for '*the storage of domestic items. Machinery, timber, reclaimed metal piping, tyres and other chattels.*' SD2 refers to storage of some vehicles on a non-rental basis. There is little information to demonstrate that the storage of vehicles referred to in SD2 was more than a *de minimis* element within the large building the subject of the appeal, but it is not a precise or unambiguous reference. The agent refers to the storage by the author of SD2 as the storage of a classic tractor. The storage referred to in SD2 appears, on the evidence before me, to be limited in scale and not the dominant storage within the appeal building.
24. The statutory declarations do not demonstrate, on the balance of probabilities, that the primary storage use of the appeal building is separate to the occupation of the farmhouse as a dwellinghouse. The appeal building acts as a domestic adjunct to the dwellinghouse and as such, on the evidence available, its use seems to be ancillary to the residential use and within the same

planning unit as the dwellinghouse. There is a single main purpose of the occupiers use of his land as residential to which secondary activities such as storage of items connected to the residential use and the upkeep of the property/site are incidental or ancillary. The limited storage referred to in SD2 does not demonstrate the primary use of the building for storage unconnected with the residential use.

25. I therefore find that there has been a material change of use of the appeal building from an agricultural use to a non-agricultural use however it has not been demonstrated in a precise and unambiguous way that it is unrelated to other uses on the wider site within the appellant's ownership. The use of the appeal building and apron, is more likely than not to be part of a wider planning unit. The submitted evidence within the statutory declarations does not demonstrate that the primary use of the building is unrelated and not ancillary to other uses in the vicinity.

Conclusion Appeal A

26. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of the use of an agricultural barn and apron for storage purposes (use class B8) was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Appeal B

Background

27. This appeal relates to the failure of the Council to issue a decision on an application to vary Conditions 1 and 3 of planning permission reference 012403 (2008 permission).
28. The appellant is seeking to vary conditions 1 and 3 of the 2008 permission. Condition 1 limits the hours during which HGV's may manoeuvre to and from the site to between 07:00 and 17:00 Monday to Friday (with the exception of Bank Holidays) and only in an emergency on Saturdays. The appellant is seeking a variation to allow HGV's to leave the site an hour earlier each day and return an hour later. In addition, he seeks further flexibility to allow HGV's to respond to emergencies overnight and on Sundays and public holidays. The Council consider there are two issues in relation to the appeal. The hours of operation sought are between the hours of 06:00 and 18:00 Monday to Friday and only in an emergency at other times.
29. Condition 3 limits the number of HGV's to be stored on site to two. The appellant is seeking to store an additional two HGV's, allowing a total of up to four HGV's to be parked within the Haybarn at any one time.
30. The Council has confirmed that the Highway Authority has no objection to the increase in vehicle numbers to four or the extended operation times. I see no reason to demur from this.
31. The appeal, identified by a red line on the site plan, is the building and other land within the ownership of the appellant, identified by a blue line on the site plan, includes the access, residential barn conversions, farmhouse, garden, other land, the yard and the building the subject of Appeal A.

Main Issues

32. The main issue in this case is the effect of varying conditions 1 and 3 on the living conditions of nearby existing or future residential occupiers, particularly in relation to noise and disturbance from HGV's manoeuvring.

Reasons

33. The appellant has submitted a Noise Report (May 2019). This identifies three residential units within the barn conversion permitted under planning permission reference 029371 and Robinsons End Farmhouse which is located on the other side of the road to the appeal site as noise sensitive receptors.
34. The background noise levels are noted to be dominated by local traffic noise on the B4112 with additional contributions from birdsong and aircraft noise. The noise report recorded three HGV's individually at start up, idle and increasing in revs as the HGV pulled out of the Haybarn and pulled up to the gate/onto the B4112. This would be the extent of noise and disturbance for each vehicle leaving the Haybarn to begin the day's work.
35. The farmhouse and the residential barn conversions use the same access onto the Ansley Road (the B4112) as the HGV lorries. The nearest residential barn conversion is stated to be about 60m from the Haybarn where the HGV's are stored. While I note that the evidence states that the barn conversions are owned by the appellant and are intended to be rented and not sold, that does not affect how the living conditions of the occupiers of those residential properties would be affected by the proposal to increase the number of HGV's on site and extend the hours of operation.
36. The proposal is to increase the number of vehicles from two to four and to increase the hours of operation. This would result in at least two extra movements in the morning and two extra in the evening, if the vehicles are out on visits throughout the day. The increase in numbers of vehicles would, on this basis, have a minimal effect on the living conditions of the occupiers of the barn conversion units, and the increase in vehicle exit and entry to the site is acceptable in terms of highway safety.
37. The proximity of the appeal building to the permitted residential barn conversions is such that it is likely that any noise from the manoeuvring of HGV's would be heard within the residential units in the quietest part of the day i.e. the early morning before 7am. The issue is whether or not that would result in unacceptable noise and disturbance.
38. The extension of operation hours in the evening from 5pm to 6pm, even with an increase in numbers of vehicles, would, in my view, be unlikely to have any noticeable effect on the noise environment due to the presence of the traffic on the B4112.
39. The Noise Report notes that there is no standard method for assessing the effect of HGV movements within a development location. It therefore assessed the development on the basis of a number of different approaches to derive a rounded understanding of the predicted noise impact. The barn conversion unit (Receptor 1) nearest to the Haybarn is the closest noise sensitive receptor and therefore is likely to be the most affected by the development.

40. In my view, the main area in which noise and disturbance is likely to occur is when the HGV's are started up in the morning and leave for their first calls of the day. While there would also be another peak in activity and noise levels when they returned this is not within the hours of the day when most people would expect lower noise levels. I consider that the starting up and idling of four HGV's within a short period of time, say 15 minutes of each other, is likely to result in harm to the living conditions of the occupiers of the nearest residential unit. This is accepted within the Noise Report which records an observed adverse effect under assessment 1 and an unacceptable adverse effect under assessment 2 for receptor R1 and a further significant observed adverse effect under assessment 2 for receptors R2 and R3. The report concludes no mitigation is required for receptors R2 and R3.
41. Management of how the vehicles are started, the closing of the Haybarn door, the opening of the access gate before the vehicle approaches are all considered to be actions which would reduce the noise impact from the HGV's on the adjacent residential properties. However, this is a matter for good site management and is not, in my view, capable of being controlled by the imposition of planning conditions. I note that the Noise Report states that these management actions would reduce the noise levels by 5dBA expressed in Table 12. However, while I consider this mitigation measure cannot be the subject of a planning condition this would result in a 5 dBA noise difference. This, of itself, would not, to my mind, result in unacceptable noise and disturbance to the nearby residents.
42. The barn conversion residential units benefit from double glazing. The double glazing was assessed as providing attenuation of 30dBA or better when closed. Therefore, when the windows are closed, they currently provide adequate mitigation to the anticipated noise levels. However, if the windows are open in receptors for ventilation, the noise levels are anticipated to reach levels that would cause harm in R1, the noise report does not mention open windows in relation to R2 and R3. In order to allow for adequate ventilation in receptor R1 the Noise Report suggests that appropriate ventilation, such as trickle ventilators should be installed. I am satisfied that a condition could be imposed to ensure that trickle ventilators are installed in Receptor R1 as indicated in the Noise Report as the land and buildings are within the control of the appellant as indicated by the blue line on the location plan. In my view, due to the lesser identified effect on R2 and R3 I concur with the conclusions of the Noise Report (May 2019) that no mitigation measures are required for those units.
43. The Council also note that there is an 8dB difference between the three measured HGV vehicles and that variations are likely according to how the vehicle is driven, revs, manoeuvring, sound output, speed, seasonal variations etc. However, this is not unusual for different vehicles to have different noise levels and the appellant has sought to show the range and assess it in the light of actual readings for three vehicles. I am satisfied that the findings of the noise report, subject to a requirement for ventilation in receptor R1, demonstrates that there is not likely to be unacceptable harm from noise and disturbance for the living conditions of nearby occupiers.
44. In relation to the extension of time to 6pm I am satisfied that this would not result in unacceptable or significant harm to the living conditions of nearby

occupiers. However, in relation to an earlier start from 6am, when nearby residents reasonably expect lower levels of noise I consider that there would be harm to the living conditions of nearby occupiers in receptor R1, which can be adequately mitigated by ventilation in accordance with the Noise Report (May 2019). This can be achieved by the imposition of a condition. I will therefore impose a condition to require mitigation in R1 in accordance with the Noise Report (May 2019).

45. Finally, in relation to extending emergency work to anytime on a weekend or Bank Holiday this has not been explained in the submitted evidence. There is no definition of what constitutes an emergency. I consider that to extend the operation of the HGV's to include the whole weekend, day or night, without an understanding of what an emergency is, or how often an emergency is likely to take place for the additional period sought could unacceptably erode the living conditions of nearby residents. On the evidence available I consider that to extend the emergency operation of the HGV's would be likely to lead to unacceptable harm to the living conditions of nearby residents.
46. I will therefore vary the conditions to allow for an increase of up to four vehicles to be parked¹ in the Haybarn and an extension of operating hours from 6am to 6pm. This would comply with Policy DS1 of the Nuneaton and Bedworth Borough Plan 2011 -2031 (adopted 2019) (LP) which states that where there are no policies relevant to the application then permission will be granted unless material considerations indicate otherwise. In addition, it would comply with the National Planning Policy Framework (the Framework) which requires a high standard of amenity for existing and future users. The appeal succeeds to that extent.
47. For the reasons given above I conclude that the appeal should partly succeed. I will grant a new planning permission² without the disputed conditions but substituting others and restating those undisputed conditions that are still subsisting and capable of taking effect.

Appeal C

Introduction

48. The appeal site comprises the building and apron that is also the subject of Appeal A and the appeal site is identified by a red line which extends to the access to the B4112. The appeal is against non-determination of an application for the use of the building for B8 purposes. In the Council's statement it concludes that the principal of the change of use is acceptable. This is subject to a condition restricting the hours of operation so that the effect on residential amenity can be mitigated. The re-use of the building is also consistent with Green Belt guidance contained in the National Planning Policy Framework (the Framework) provided that a condition is imposed restricting outside storage. However, the Council does consider that due to the potential visibility issue at the access onto the B4112 the proposal does raise highway safety concerns.

¹ The vehicles are parked rather than stored and I will therefore use the term 'parked' in the condition.

² The description of the planning permission will remain as that of the original planning permission and thus refer to two HGV's. However, the limitation on the number of HGV's permitted is regulated by the condition imposed i.e. four HGV's.

Main Issue

49. On the basis of the Council's statement I consider that the main issue is the effect of the proposal on highway safety, with particular regard to the visibility at the access on to Ansley Road (the B4112).

Reasons

50. The Highway Authority has raised concerns in relation to the visibility from the access to Ansley Road (the B4112) looking east to the corner. A splay of 120m was required in earlier planning permissions and this is considered to be necessary.
51. The appellant has provided a plan of the achievable visibility splay at the access, looking east, which documents a 2.4m by 100m visibility splay measured from the kerbline, a 2.4m x 110m visibility splay measured to a 1m offset from the nearside kerbline, and a 2.4m x 131m visibility splay measured to the centre line.
52. In the Council's evidence it is noted that the Highway Authority consider that if the visibility splay set out in the drawing can be achieved then this would be acceptable. However, the Highway Authority has queried the accuracy of the drawing referring to the footway being shown to be 2.5m yet that footway is not provided for the full 'y' distance.
53. The appellant's plan Existing visibility splays VC0284 Drwg No 001 shows that the visibility splay is not interrupted by buildings. I saw on site the extent of the footway and the boundary walls and buildings alongside the visibility splay line. The plan shows a critical point within the visibility splay, with a photograph of the point of between the wall and the splay line. The plan does not identify a footway as such but does show the kerb line, walls and buildings. On the evidence, and having seen the site, I believe that the visibility splay shown on plan Existing visibility splays VC0284 Drwg No 001 can be achieved and that a condition requiring another plan is not justified. I consider adequate visibility can be achieved in accordance with this plan. I am therefore satisfied that there would be no unacceptable impact on highway safety as a result of the proposal. This would comply with the Framework which requires safe and suitable access to a site.
54. I will reference the plan Existing visibility splays VC0284 Drwg No 001 in the condition approving the plans and require vegetation to be kept below 1 metre in height within the visibility splays set out in that plan. The latter condition is necessary as vegetation could be allowed to grow within the appellant's ownership that may intrude on the existing visibility splays. These conditions are necessary to maintain adequate visibility at the junction.

Conditions

55. In relation to the effect of the use on residential amenity, particularly with respect to the occupiers of the barn conversions, the Council has put forward a condition limiting the hours of operation to 07:00 and 17:00 Monday to Friday only. The Noise Report (June 2019) for Appeal C states that there would be no anticipated vehicle noise before 7am and therefore for the purposes of cumulative assessment taking into account Appeal B the proposal in Appeal C is assumed to make zero noise contribution. In my view, an hours of operation

- condition, preventing the use before 7am is necessary. The appellant in his final comments suggests that if Appeal B is allowed then a start time of 6am is justified for Appeal C. This is contrary to the Noise Report assumption that the proposal in Appeal C is not anticipated to generate any vehicle noise before the hours of 7am. I therefore do not accept the appellant's point.
56. In addition, the appellant suggests in his final comments a finish time of 11pm Monday to Friday and 8am to 5pm operation on weekends. The Noise Report (June 2019) refers to a background noise survey for 18 April 2019 which was a Thursday. The background noise survey only records data from 06:10 to 14:00. There are no background noise survey results after 14:00 on the survey day or for a Saturday and/or a Sunday and I therefore do not accept that there is adequate evidence before me to conclude that operation of the storage use after the evening rush hour or on weekends would not result in noise and disturbance to nearby residents. On the evidence available, I consider that it is necessary and justified to safeguard the living conditions of nearby residential occupiers to limit the hours of operation of the storage use to 07:00 to 18:00 Monday to Friday and not at any time on Saturday or Sunday or Bank Holidays.
57. To ensure that the openness of the Green Belt is not reduced, I will impose a condition preventing outside storage.
58. In relation to highway safety, the existing HGV use within the Haybarn does not have a requirement for either the size of vehicle or the gates to be set back from the carriageway by 12m. There is no substantiated evidence of an issue with existing HGV movements to the site overhanging the highway. The appellant has provided as part of the parking plan submitted at final comments a drawing which shows a HGV clear of the highway. I am therefore not satisfied, on the basis of the evidence before me, that it is necessary or justified to require the entrance gates to be set back further than they are currently or restrict the size of vehicles attending the site for the proposed use.
59. The Council has sought a parking layout for all uses within the appellant's site i.e. the land outlined in red and blue on the appeal plan. However, this is not, in my view, directly related to the appeal before me. The control of parking for the residential or HGV uses is not part of the matters before me in this appeal. On the application form the answer to question 9 on vehicle parking records that it is not relevant to the proposal. No parking is shown for the appeal proposal and there is no indication that any parking of vehicles associated with the storage use are proposed. However, I note that the appellant has submitted a parking layout plan showing eight parking spaces for the farmhouse and barn conversion residential units and 10 other spaces. These are outside the appeal site and it is not clear which uses these eight parking spaces would serve but it is assumed it would be for both the HGV and storage use. In my view, there is no justification on the evidence before me to impose conditions relating to provision of parking of vehicles for the appeal proposal as there is no substantiated evidence that vehicles associated with the use will be parked at the site or staff or others would need access to parking for the use.
60. However, uses ancillary to the storage use, such as parking, are permitted within the appeal site as defined on plan dwg 2019.03-06/001. I will therefore impose a condition that prevents the parking of a vehicle on the access part of the appeal site in the interests of highway safety and residential amenity. If

parking specifically for the use is required, this may necessitate a further planning application on land beyond the appeal site.

61. I am not satisfied that there is justification for the proposed use to be ancillary to the other uses within the appeal site. I find that the limitation on hours of operation and the limitation of the storage use to within the building would limit the intensity of that use to an acceptable level.

Conclusion

62. For the reasons given above I conclude that the appeal should be allowed.

Hilda Higenbottam

Inspector



Plan referred to in condition 3 of Appeal C

This is the plan referred to in my decision dated: 12 June 2020

by Mrs H M Higenbottam BA (Hons) MRTPI

Land at: Woodlands Farm, Ansley Road, Robinsons End, Nuneaton, Warwickshire CV10 8LR

Reference: APP/W3710/W/19/3237197

Scale: NTS

