



Appeal Decision

Site visit made on 30 June 2020

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2020

Appeal Ref: APP/E2001/W/20/3249525

Land North of Home Farm, Main Street, Spaldington, East Riding of Yorkshire DN14 7NJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr D Murphy against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/02829/PLF, dated 13 August 2019, was approved on 18 December 2019 and planning permission was granted subject to conditions.
 - The development permitted is retention of building for use as an office.
 - The conditions in dispute are Nos 5, 6, 7 and 8 which state that:
 - Condition 5: Unless otherwise agreed in writing with the Local Planning Authority, the business use hereby permitted shall not be open to employees nor visitors, nor shall business deliveries be received or despatched from the site outside the following times: Monday to Friday daily 8am to 6pm; Saturdays 8am to 12pm, and not at all on Sundays or Bank Holidays.
 - Condition 6: Within 1 month of the date of the permission details of an acoustic fence to the eastern and southern boundaries shall be submitted to the Local Planning Authority for approval, together with a programme of implementation. The fence shall then be installed as approved in accordance with the approved programme of implementation.
 - Condition 7: Within 3 months of the date of the permission, obscure glass shall be installed in the windows on the eastern and southern elevations. The glass shall thereafter be so retained, unless otherwise agreed in writing by the Local Planning Authority.
 - Condition 8: Within 3 months of the date of this permission the air conditioning units on the eastern elevation shall be relocated to the western or northern elevation, unless otherwise agreed in writing by the Local Planning Authority.
 - The reasons given for all of the conditions is: This condition is imposed in accordance with Policy ENV1 of the East Riding Local Plan and in the interests of the residential amenities of the locality.
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Decision

1. The appeal is allowed and the planning permission Ref 19/02829/PLF for the retention of building for use as an office at land north of Home Farm, Main Street, Spaldington, East Riding of Yorkshire DN14 7NJ granted on the 18 December 2019 by East Riding of Yorkshire Council, is varied by deleting conditions 5, 6, 7 and 8 and replacing conditions 5 and 6 with the following conditions:

Condition 5: The office building hereby approved shall not be open for business nor occupied by employees or visitors, nor shall business deliveries be received or dispatched from the site outside the following

times: Monday to Friday daily 8am to 6pm; Saturdays 8am to 12 noon, and not at all on Sundays or Bank Holidays.

Condition 6: Within 1 months of the date of this decision details of an acoustic fence to be erected on the eastern boundary of the site shall be submitted to the Local Planning Authority for approval, together with a programme of implementation. Following the approval of the submitted details and implementation programme by the Local Planning Authority, the acoustic fence shall be installed in accordance with the approved details and the approved programme of implementation.

Procedural Matters

2. The description on the application form is different to the appeal form and decision notice. I note the references to the description of the development in the evidence before me. I have taken the description of the development in the banner heading from the decision notice as this reflects the approach agreed between the parties. In addition, the conditions imposed on the planning permission are drafted to reflect the retrospective nature of the application. I have determined the appeal accordingly.

Background and Main Issue

3. Planning permission was granted for the retention of an office building subject to nine conditions. The appellant is seeking the removal of conditions 5, 6, 7 and 8 of the permission as set out in the banner heading.
4. The conditions were imposed to accord with Policy ENV1 of the East Riding Local Plan 2012 - 2029 Strategy Document adopted April 2016 and 'in the interests of the residential amenity of the locality'. Policy ENV1 states that all development proposals will contribute to safeguarding and respecting the diverse character and appearance of the area through their design, layout construction and use. The policy supports development that meets several criteria including having regard to the specific characteristics of the site's wider context and the character of the surrounding area and having regard to the amenity of existing or proposed properties.
5. Taking the above into account, the main issue is the effect that removing conditions 5, 6, 7 and 8 would have on the living conditions of neighbouring properties and the character and appearance of the area.

Reasons

6. Spaldington is a small, rural hamlet within a tranquil countryside setting. It has developed as a settlement comprised of a modest number of dwellings of various design and siting, placed along both sides of a single road. Residential buildings are interspersed with agricultural or former agricultural buildings generally set back from the road frontage.

Condition 5

7. The office building is a single storey prefabricated structure located in a former farmyard. It is bounded by the existing business operation and farm buildings to the north and west, by extended garden land to the east and to the south by a fold yard associated with the adjacent property, a grade II listed farmhouse.

Car parking is to the front of the office building and access is via a single width access road from the village street frontage.

8. The office building, according to the evidence, is designed to accommodate a maximum of 10 workstations. There are 4 full time and 2 part time staff currently employed and the office is used on an infrequent basis for training purposes. Although I note that the appellant lives in the village and several local people are employed within the office, given the rural location it is likely that a good proportion of the employees would arrive by car. The evidence indicates that the office would generate some visitors which would add to the number of vehicle movements to and from the site.
9. The building is located close to the site boundaries. The outside seating area is located between the office building and the southern site boundary. The building has 5 windows facing eastwards over the adjacent land and patio doors accessing the seating area to the south.
10. I agree with the Council that the building is close to domestic boundaries and would be relatively intensively occupied. General activity within and around the office building would result in the potential for a greater level of noise and disturbance at certain times due to the comings and goings of traffic and the arrangement of the internal and external office space.
11. The office is set back from the road away from streetlights, next to an open field used as an extended garden area and visible from the rear of domestic properties. In the evenings and weekends, times associated with rest and relative quiet, I consider that the operation of the office with its associated lighting, external seating area, air conditioning units and comings and goings of vehicles would be prominent and intrusive. As a result, it would detract from its wider rural setting and from the living conditions of neighbouring residential properties.
12. I recognise that there is no hours restriction on other parts of the site and that the site has previously been in agricultural use. However, I consider that the number of people working in the office and its visibility in the wider landscape, due to its proximity to domestic boundaries and open land, results in the need for restriction of the operating hours of the office. I appreciate that the appellant currently has an office in his garden within the village. However, the evidence before me indicates that this office is similarly restricted.
13. I conclude that the imposition of a condition limiting the hours that the office can operate is reasonable and necessary in the interest of the living conditions of neighbouring occupiers and the character and appearance of the area. It would ensure compliance with ENV1 which seeks high quality design by ensuring proposals contribute to the character and appearance of the area and has regard to the amenity of existing properties. Nevertheless, I find that the wording of the condition, which provides the appellant with the option to agree alternative hours in writing and refers to the business use rather than the building, is not precise. I therefore propose to delete this condition and replace it with one which I consider to be more precisely worded.

Conditions 6 and 8

14. The southern boundary of the site adjacent to the seating area is defined by a wall and trees and a range of planting defines the eastern boundary. I saw

- during my site visit that some of this planting has deteriorated, condition 2 of the planning permission requires the planting to be retained and maintained.
15. With the imposition of a condition limiting hours of use as discussed above and the boundary planting, I am satisfied that an acoustic fence would not be needed on the site boundary to mitigate noise generated by the use of the office or external seating area.
 16. However, air conditioning units have been installed adjacent to the eastern boundary. Neither the appellant nor the Council have provided any analysis of the background noise levels. The appellant suggests that the running of air conditioning units is 'virtually silent' but has submitted specifications for the air conditioning units which indicate that the units have a maximum noise level of 50 dB and 62 dB. There is no evidence about how often maximum operation of the air conditioning units is likely, its duration or times of the day. Further, the appellant indicates that a fence is already in place along the southern and eastern boundaries. I saw at my site visit that this is not the case.
 17. The air conditioning units face the extended garden area where the effects of noise would not be as significant as noise received at the facade of a residential building. Nevertheless, were the units to run close to the maximum noise level in the rural context of the site the air conditioning units could be a significant source of noise to the adjacent domestic land. Therefore, based on the limited evidence before me it appears that a level of noise attenuation would be needed if the air conditioning units are to remain in their current location.
 18. The Council state that the acoustic fence would provide noise attenuation for the air conditioning units and at the same time have imposed a condition to require the relocation of the units to either the north or western elevation (condition 8). The appellant asserts that the air conditioning units could not be suitably relocated to the west or northern side of the building.
 19. Having regard to these comments, I consider that the reduction of noise from the air conditioning units could be achieved through the placement of an acoustic fence along the eastern boundary. No acoustic fence would be needed to the south because of the greater distance to this boundary and the wall that is in place. The existing planting to the east would minimise the significance of an appropriately sited fence in the landscape.
 20. Overall, I find, based on the evidence before me, that there will be times that the air conditioning units emit noise that would detract from the rural environment, sufficient to cause disturbance to the enjoyment of the neighbouring land and to detract from the tranquil rural setting of the site.
 21. Consequently, I consider that condition 6 should be deleted and replaced with amended wording to require an acoustic fence only to the eastern boundary. The timing for implementation is 1 month from the date of this decision. Condition 8 is not reasonable or necessary and should be deleted. This approach would ensure compliance with Policy ENV 1.

Condition 7

22. The office building has a number of windows facing the eastern boundary and patio doors facing the southern boundary. I saw during my site visit that each of the windows is fitted with blinds and that views through them are limited

due to the planting on the eastern boundary. As I have indicated, the maintenance of the planting is controlled by condition 2.

23. With the combined effect of the boundary planting, the hours condition and the acoustic fence, I consider there would be no additional benefit from providing obscure glazing to the windows. The patio doors are not specifically controlled by the condition, there are no windows facing the southern boundary. However, for similar reasons I cannot see any benefit from obscure glazing patio doors. Accordingly, I do not find condition 7 to be reasonable or necessary.
24. I appreciate the concerns raised by the adjacent occupier and I noted at my site visit the location of the bedroom window which looks towards the appeal site. However, with the other conditions attached to the permission, I consider that the living conditions of the adjacent occupier would be protected and the requirements of Policy ENV1 would be met.

Other Matters

25. I have considered the Council officer's report and I have noted the concerns raised by third parties about matters related to the principle of the development. I see no reason to disagree with the Council's conclusions with regard to these matters.
26. I have also considered the proximity of the site to the adjacent grade II listed building, Home Farmhouse. I have considered the duty under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. I am satisfied that the siting of the office building and its operation would not harm the significance of the listed building or its setting.
27. I also note the letters of support for the development. I appreciate that it is considered that the appellant has provided improvements to the appearance of the wider site. However, this does not affect my conclusions on the issues before me in this case.

Conclusion

28. For the reasons given above, I conclude that the planning permission should be varied as set out in the formal decision.

Diane Cragg

INSPECTOR