



Appeal Decision

Site visit made on 1 October 2020

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2020

Appeal Ref: APP/X1355/W/20/3254201

Leazes Farm, Leazes Lane, Wolsingham, Durham DL13 3DS

- 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 Gerard te Lintelo against the decision of Durham County Council.
- The application Ref DM/19/01850/FPA, dated 10 June 2019, was approved on 23 April 2020 and planning permission was granted subject to conditions.
- The development permitted is three agricultural buildings: for housing animals including a calving barn, young bull barn and 1 agricultural building for midden/silage and associated works including drainage and landscaping.
- The conditions in dispute are Nos 3, 4 and 6 which state that:
 - 3) The Environmental management plan submitted by NJD Environmental Associates received on the 18th March 2020 (reference NJD20-042-002R) shall be adhered to at all times that agricultural operations are being undertaken.
 - 4) No animals other than sheep and cattle shall be housed in the buildings hereby approved.
 - 6) Delivery and collection of feed, fuel, livestock and any other materials associated with the farming operation, shall take place only between the hours of 7am-8pm Monday to Friday, 9am-5pm on a Saturday to Sunday. The above activities shall be permissible outside of these hours only in the event of animal welfare needs, vehicle breakdown, inclement weather and in the event of an emergency.
- The reasons given for the conditions are:
 - 3) In the interest of residential amenity in accordance with Policies GD1 and BE19 of the Wear Valley District Local Plan and Part 15 of the NPPF.
 - 4) In the interests of residential amenity to prevent a significant material alteration to the impact on noise and odour in accordance with Policies GD1 and BE19 of the Wear Valley District Local Plan and Part 15 of the NPPF.
 - 6) In the interests of residential amenity to prevent a significant material alteration to the impact on noise and odour in accordance with Policies GD1, BE19 of the Wear Valley District Local Plan and Parts 12 and 115 of the NPPF.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. It is assumed that reference in the reason for condition no.6 to Part 115 of the NPPF (National Planning Policy Framework) is an error and should be Part 15.

Main Issue

3. The main issue is the effect that removing the conditions would have on the living conditions of occupants of nearby residential properties with regard to noise, disturbance and odour.

Reasons

4. The appeal property comprises a farm complex located in the open countryside. It is accessed via a track from Leazes Lane. There is a residential property, Overdale, located at the junction between Leazes Lane and the access track and another residential property, Lawson Field, is located further along the track past the farm. Given its rural location, the site is in a very quiet area. At the time of my site visit I experienced little to no noise, save for birds, wind in the trees and occasional passing traffic on Leazes Lane.
5. In support of the application, the appellant submitted an Environmental Management Plan (EMP). This plan is included as Appendix 2 in the Noise and Odour Risk Assessment by NJD Environmental Associates (ref NJD20-042-002R). Condition no.3 requires compliance with said EMP at all times that agricultural operations are being undertaken.
6. Upon consideration of the EMP the Council were satisfied that subject to compliance with its content and the mitigation measures contained therein, the proposed development would not have an unacceptable impact. In my opinion, due to the noise, disturbance and odour impacts of the development and the location of nearby residential properties, this is a reasonable stance. The appellant has commented that the EMP only requires compliance 'as far as possible'. I accept that the EMP includes certain elements that are 'as far as possible' or 'as far as practicable' however it does not appear that this relates to the EMP as a whole.
7. I consider that without the mitigation measures as outlined in the EMP, due to the siting of nearby residential properties, the development would have the potential to cause significant harm to the living conditions of occupants of those properties in relation to noise, disturbance and odour. I am not presented with substantive evidence that would justify why the EMP should not be adhered to. As such I find that the condition requiring it to be adhered to is necessary.
8. The EMP also states that no animals other than cattle or sheep are to be managed at the site and this is reflected in condition no.4. The Council consider that the keeping of pigs or poultry has the potential to be more intensive and that would trigger further environmental assessment, primarily because the rearing of poultry and pigs involves animals being kept inside throughout the year and a greater degree of noise and odour would be generated. I am not presented with any substantive evidence to provide an opposing view, that the storing of poultry or pigs would not generate additional, or indeed alternative, environmental impacts. As the Noise and Odour Risk Assessment, including the EMP, is predicated on the basis of the management of cattle or sheep, I consider it to be reasonable to impose a condition to reflect this in this instance.
9. I consider that without this restriction, the development would have the potential to cause significant harm to the living conditions of occupants of nearby residential properties in relation to noise, disturbance and odour. In the

- absence of any evidence to demonstrate that there would be no harm generated were the condition to be removed, I find that the condition requiring that no animals other than sheep and cattle shall be housed in the buildings is necessary.
10. One of the mitigation measures stated in the EMP is that delivery and collection of feed, fuel, other materials, livestock should take place at reasonable times, i.e. during the normal working day, as far as is practicable.
 11. Condition no.6 reflects this measure with the Council considering such 'reasonable times' being between the hours of 7am-8pm Monday to Friday, 9am-5pm on a Saturday to Sunday with the exception to these hours in the event of animal welfare needs, vehicle breakdown, inclement weather and in the event of an emergency.
 12. The Noise Risk Assessment outlines that the number of vehicle movements would be likely to increase by approximately 50% and that provided that these are at reasonable times, this increase is considered to be not significant. As Overdale sits on the junction with Leazes Lane, all traffic for deliveries and collections would be required to pass this property. At the junction where the property is situated, vehicles for collection and delivery would be braking, revving engines and changing gears, on a gravel surface. Such noise, in an otherwise quiet environment, would have an unacceptable impact on the living conditions of the occupants of Overdale were it to occur outside the stipulated hours.
 13. The exceptions as detailed in the condition provide an appropriate means of ensuring that deliveries and collection of feed, fuel, livestock and any other materials associated with the farming operation can occur outside these hours where in the event of animal welfare needs, vehicle breakdown, inclement weather and in the event of an emergency. In my opinion the allowance of these exceptions reflects the 'as far as is practicable' reference in the EMP. The condition does not prevent general farm working or use of farm vehicles at any time. I consider that without this restriction, the development would have the potential to cause significant harm to the living conditions of occupants of Overdale in relation to noise and disturbance. I find that the condition restricting the hours for delivery and collection is therefore necessary.
 14. I therefore conclude that conditions Nos. 3, 4 and 6 are necessary and are required to ensure that the development does not have an unacceptable impact on the living conditions of nearby residential properties in regard to noise, disturbance and odour. The conditions are necessary and required to ensure that the proposal complies with saved Policies GD1 and BE19 of the Wear Valley District Local Plan (1997) which require, amongst other things, that it would not disturb or conflict with adjoining uses, and the requirement in the National Planning Policy Framework that decisions should mitigate and reduce to a minimum, potential adverse impacts resulting from noise and ensuring a high standard of amenity.

Other Matters

15. The appellant has referred to the lack of any existing restrictions on the site. Be that as it may, the development to which the conditions relate is required to be determined in accordance with the development plan in place at the time of the decision. I have found that the conditions are necessary and required to

ensure the development protects living conditions and thus comply with the requirements of the development plan.

16. The appellant considers that the hours condition was as a result of comments submitted by a neighbouring resident, however those comments related only to construction traffic during the construction phase. For the reasons given above, I do not consider that the condition was imposed simply as a result of representation received.

Conclusion

17. For the reasons given above, and having had regard to all other matters raised, I conclude that the conditions should be retained in their current form and accordingly the appeal is dismissed.

A M Nilsson

INSPECTOR