



Appeal Decision

Site visit made on 5 October 2020

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 December 2020

Appeal Ref: APP/L1765/W/20/3245248

High Ridge Farm, Equestrian Fencing Storage Land, Hospital Road, Shirrell Heath SO32 2JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Daniel Dennis of Equestrian Fencing against the decision of Winchester City Council.
 - The application Ref 19/00242/FUL, dated 1 February 2019, was refused by notice dated 22 July 2019.
 - The development is: (i) Change of use of redundant agricultural buildings to workshop for the production of wood products; (ii) Change of use of agricultural land to extend existing timber yard for timber storage; (iii) Repositioning and design of service road to serve the retail outlet granted by permission 11/00238/FUL; (iv) Installation of yard lighting.
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Preliminary Matters

1. The application form itemises four discrete acts of development as set out in the banner heading above. The repositioning of the service road is a proposal, whereas the other developments had already taken place at the time of my visit. I have determined the appeal on the basis that planning permission is being sought retrospectively for those elements.

Decision

2. The appeal is dismissed insofar as it relates to installation of yard lighting and change of use of redundant agricultural buildings to workshop for the production of wood products. The appeal is allowed insofar as it relates to change of use of agricultural land to extend existing timber yard for timber storage and repositioning and design of service road to serve the retail outlet granted by permission 11/00238/FUL.
3. Planning permission is granted for change of use of agricultural land to extend existing timber yard for timber storage and repositioning and design of service road to serve the retail outlet granted by permission 11/00238/FUL at High Ridge Farm, Equestrian Fencing Storage Land, Hospital Road, Shirrell Heath SO32 2JR in accordance with the terms of the application, Ref 19/00242/FUL, dated 1 February 2019, and the plans submitted with it so far as relevant to that part of the development hereby permitted and subject to the conditions set out in the attached schedule.

4. The site has an extensive planning history which includes recent appeals against enforcement notices served in relation to certain of the developments before me. The appellant supplied a copy of this appeal decision¹ after the site visit. This provides background but does not have any direct bearing on my consideration of the appeal, given that none of the grounds of appeal for the enforcement notices pertained to the planning merits.

Main Issues

5. The Council does not object to the change of use of agricultural land to extend the timber yard or the proposal to reposition the service road. As I explain later on in my decision, I have no reason to take a different view.
6. The main issues in dispute are:
 - a) the effect of the yard lighting on the character and appearance of the area and the living conditions of the occupants of nearby properties; and
 - b) the effect of the workshop on the living conditions of the occupants of nearby properties, with particular reference to noise.

Reasons

Lighting

7. The established timber yard at High Ridge Farm contains substantial amounts of timber, much of it stored on metal racking systems. The lighting to which this application relates has been installed between the racks. There are 4 luminaires, each mounted on a pole and aimed in a north-westerly direction along the aisles. The plans and officer report reference the supporting poles as being 3 m high, but the parties agreed at the site visit that they are more in the region of 4 m. The lighting was not operative at the time of my inspection, having been disconnected following an enforcement investigation by the Council. My assessment of impacts is therefore based on the documentary evidence.
8. During my visit I saw a number of additional lights mounted on a building in the eastern part of the site. These are not referenced in the Planning Statement, which discusses only the lighting within the working areas between the racks. The Council officer attending the site visit did not challenge the appellant's assertion that the building lighting was authorised. Whether or not this statement was factually correct is not for me to consider. I have determined the appeal based on the application submission which does not seek permission for the building mounted lights.
9. The submitted lighting assessment demonstrates that the floodlights do not provide direct illumination of adjacent properties. The Council does not contest this but is nevertheless concerned with the issue of glare. The luminaires are angled slightly downwards but point along the racking aisles in the direction of Bishops Lane. The lights have been fitted with metal hoods in an attempt to limit light pollution but, as evidenced by the drone photography provided by the appellant, this does not prevent views of the light source. The high intensity of light provided by the LED fittings is such that they provide unacceptable levels of glare which is detrimental to the rural environs and the living conditions of any residents with a direct view of the lights.

¹ APP/L1765/C/18/3208707, 3208721 & 3208865

10. I have seen no substantive analysis of the extent to which the lighting units are visible from neighbouring properties or through the entrance onto Hospital Road. The stacked timber provides some screening currently, but stock levels are likely to fluctuate and therefore the storage racks are not guaranteed to provide adequate mitigation. Vegetation on the site boundaries cannot be relied upon to provide an effective barrier in winter when the lighting is most used.
11. The yard lighting is only required during core working hours of 0700 to 1730. As such, it would only be needed for part of the year. The appellant would accept a condition restricting the lighting to these times and has also offered to forego passive infrared lighting. Whilst this would provide some mitigation for the lighting impacts it would not fully address the harm that would arise.
12. I have taken into account the benefits to the running of the business. This is a commercial site and therefore some lighting is to be expected. Whilst a more sensitive low level lighting scheme is a possibility, there is no indication as to what this might involve. It would be a materially different design to that applied for and therefore it would not be appropriate to impose a condition requiring a scheme to be agreed with the Council. This would prejudice interested parties.
13. Accordingly, I conclude that the installed yard lighting is harmful to the character and appearance of the area and the living conditions of occupants of nearby properties. The development is contrary to Policy DM19 of the Winchester Local Plan Part 2 – Development Management and Site Allocations (LP) insofar as this seeks to avoid adverse health or quality of life impacts through light intrusion. There is also conflict with LP Policies DM15 and DM23 which seek to respect local distinctiveness and prevent unacceptable effects on the rural character of the area by means of visual intrusion or impacts on the tranquillity of the environment.

Noise

14. The two buildings that have been the subject of a change of use are located adjacent to the northern site boundary. The application form and Planning Statement identify the former use as agricultural but my reading of the enforcement appeal decision suggests that they were stables. Either way, the buildings are now in use as workshops for the manufacture and assembly of wood products in connection with the established timber yard use. I saw that the workshops contain a variety of tooling and equipment and some of this was in use at the time of my visit.
15. The Council is concerned that noise from woodworking operations is detrimental to the quality of life of local residents. The Council's Environmental Health Officer has raised no issue with the submitted noise assessments, which are consistent with BS4142:2014 +A1:2019 *Methods for rating and assessing industrial and commercial sound*. These assessments represent the only available technical evidence to inform my consideration of the appeal.
16. Two surveys were carried out. The first indicated the potential for significant adverse noise impacts at the nearest off-site receptor, Corner Cottage. Sound breakout from the workshops was identified due to incomplete sealing between the blockwork walls and lightweight roofs. These deficiencies have since been rectified with, amongst other things, the installation of foam insulation panels on the undersides of the roofs and the filling of gaps in the structures. The works have been carried out to a reasonable standard.

17. The second of the sound surveys following remedial works showed a significant improvement to the buildings' acoustic performance, with an Assessment Level² of +4 dB. This is below the +5 dB figure which is set out in BS4142 as likely to be an indication of an adverse impact. However, the actual wording within the British Standard is 'around + 5dB' and it is dependent on context. Whether the development is acceptable therefore involves an element of judgement.
18. I have sought the parties' views on the possibility of imposing a condition, based on model condition 8 within Appendix A of Circular 11/95³, which restricts the Rating Sound Level from the workshop to no more than +4 dB above the Background Sound Level, as at the nearest residential receptor. The appellant has indicated that they would support such a condition, whereas the Council's Environmental Health Officer has expressed concerns regarding matters of precision and the choice of the +4 dB threshold.
19. The former concern could be overcome by adopting the same methodology as the appellant's noise assessment⁴. However, it seems to me that there can be no certainty that a +4 dB restriction would prevent harm to the living conditions of adjoining residents. Even at that level, power tools and machinery could be the source of annoyance and detract from the quiet enjoyment of neighbouring gardens. Although a condition controlling hours of operation would assist in reducing the harm, it would not provide adequate mitigation.
20. As part of its list of suggested conditions the Council has tabled an alternative condition which would secure the implementation of a scheme of acoustic attenuation works to the fabric of the buildings. It is unclear whether these are intended to be in addition to those already carried out. Without any indication as to the nature of the works, and whether they are realistic or achievable, it is impossible to make any reliable judgements as to whether they are likely to be effective in reducing noise levels for nearby residents. Consequently, the suggested condition would not pass the tests of precision or reasonableness.
21. The parties agree that noise nuisance could be exacerbated by workshop doors being left open. This could be an issue in summer months when the weather is warmer and there is a desire for ventilation. The adverse impacts could be mitigated by means of a condition requiring external doors to be kept shut at all times tooling and equipment are being operated, but this would only be effective if the buildings themselves are sufficiently well insulated with the doors closed to ensure acceptable noise levels at the nearest receptors. Although substantial improvements have been made to the building fabric, these have not gone far enough to give me the necessary confidence that the workshops can coexist in harmony with residential uses without giving rise to unwanted noise impacts.
22. The change of use relates to the buildings and not the land surrounding them. I am mindful that the workshop operation does bring with it some additional activity in terms of material handling and forklift truck movements, albeit from a distance it is difficult to distinguish these from the general operation of the timber yard. That said, the vehicle movements associated with the workshop would be more audible for neighbours due to their closer proximity. Such activity could be controlled by means of the noise management plan and/or a condition to restrict the times of deliveries to and despatches from the buildings.

² The difference between the Rating Sound Level and the Background Sound Level.

³ Circular 11/95: 'Use of conditions in planning permission'

⁴ The appellant's noise assessment applies adjustment factors for impulsivity and intermittency

23. Neither of the main parties interprets the BS4142 assessments by reference to the noise exposure hierarchy set out in the Noise Policy Statement for England. In my judgement, the impacts fall short of the Significant Observed Adverse Effect Level. I would place them within the Lowest Observed Effect Level where the recommended action⁵ is to mitigate and reduce impacts to a minimum. Although the appellant has clearly undertaken some mitigation measures, I do not consider that they go far enough to minimise the detrimental effects.
24. I therefore conclude that the change of use to workshop has an unacceptable adverse impact on the living conditions of the occupants of nearby properties. The evidence does not convince me that the impacts can be mitigated solely through the use of planning conditions. Consequently, there is conflict with LP Policy DM20 insofar as it seeks to ensure that noise from development does not have an unacceptable impact on human health or quality of life.

Other Matters

25. LP Policy MTRA 4 makes provision for the expansion, on site, for established businesses or to meet an operational need, where it can be achieved without detriment to the character and appearance of the area, or neighbouring uses or create inappropriate noise/light and traffic generation. The policy also allows for the re-use of rural buildings for employment purposes. The Council concedes that the change of use of the stables is acceptable in principle, but I agree with its assessment that the noise impacts are harmful.
26. The strip of land identified for change of use lies to the rear of the site and is small in size relative to the timber yard as a whole. It lies partly behind a building and is not publicly visible. From nearby properties the additional storage is seen in the context of the high racks of timber on the remainder of the site. Native shrub and tree planting are proposed along the boundary and this would provide visual containment. Subject to a condition requiring the landscaping to be implemented there would be no harm to the character and appearance of the area and no diminishment of the settlement gap within which the site lies. There is no conflict with Policy CP18 of the Winchester District Local Plan Part 1 Joint Core Strategy (2013) in this regard.
27. The new service road would run through the centre of the timber yard instead of the dog-leg arrangement shown on the approved plans for 11/00238/FUL. This would have little consequence to the character or appearance of the area, except for the fact that racking would be closer to the boundaries. Hedging along the site frontage is sufficiently tall and deep to provide mitigation for the additional visual impacts of timber being stored nearer to the edges of the site. The timber yard would retain adequate parking and vehicle tracking plans show that turning for articulated lorries would be maintained within the confines of the site. These matters can be secured by condition.
28. Residents have raised a variety of concerns, many of which relate to the operation of the timber yard as a whole, a substantial part of which is the subject of a Lawful Development Certificate. It is suggested that the development has led to adverse highway impacts along Hospital Road. However, there is no compelling evidence to persuade me that the additional storage created will have made a significant difference to the overall number of lorry movements. Notwithstanding my concerns about noise, the manufacture of products in the

⁵ Planning Practice Guidance Reference ID: 30-005-20190722

workshop on site will be of benefit as it will reduce the number of deliveries of finished products to site. The Highway Authority did not object to the application and based on the evidence before me I have no reason to take a contrary view in respect of the highway issues.

29. It is evident from the planning history that there have been previous breaches of planning control on the site. This is not a reason to avoid using conditions where these would make an otherwise unacceptable development acceptable. The local planning authority has powers to secure compliance and provided that any conditions are drafted to be precise and enforceable there is no reason why they should not be effective.

Conditions

30. In addition to the standard commencement condition for the repositioned service road, I have attached a condition to specify the approved plans. This creates certainty for all parties. To ensure appropriate mitigation for the new rack layout and external storage, conditions are needed to require the retention of the hedgerow along the boundary with Hospital Road and the implementation of the planting shown on the landscaping scheme. In the interests of highway safety, a further condition is necessary to ensure adequate provision for the turning, loading, unloading and the parking of vehicles within the site.

Conclusion

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed in part and dismissed in part.

Robert Parker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted, insofar as it relates to repositioning of the service road, 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: drawings numbered 302_DD and 307_DD.
- 3) The planting scheme shown on approved drawing no. 302_DD shall be carried out in the first planting season following the date of this decision. Any trees, shrubs or plants which within a period of five years of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 4) The hedgerow along the front boundary of the site adjacent to Hospital Road shall be retained along its entire length and at a minimum height of 2 m unless any variation is agreed in writing by the local planning authority. Should gaps occur, new boundary hedging shall be planted within these gaps as a staggered row with plants at 500mm spacing and with 500mm between rows, as space allows, within 12 months of the gap first developing. Native species shall be planted comprising 35% hawthorn (*crataegus monogyna*), 35% blackthorn (*prunus spinosa*), 20% hazel (*corylus avellana*) and 10% field maple (*acer campestre*), unless otherwise approved in writing by the local planning authority.
- 5) The repositioned service road shall not be brought into use until provision for the turning, loading, unloading and the parking of vehicles has been made within the site in accordance with the approved plans. These areas shall be retained thereafter. The parking spaces shall only be used for parking and not for any other purpose including the storage of materials, caravans and trailers.

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