The Planning Inspectorate

Appeal Decision

Site visit made on 20 January 2021

by Sarah Housden BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2021

Appeal Ref: APP/N2535/W/20/3256638
Red Hog Pastures, Main Street, Apley Market Rasen LN8 5JQ

- 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 Andy Judge against West Lindsey District Council.
- The application Ref 141074, is dated 6 April 2020.
- The development proposed is 'erect 2 no. general purpose agricultural buildings and 2 no. silos'.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Andy Judge against West Lindsey District Council. An application for costs was also made by West Lindsey District Council against Mr Andy Judge. These applications are the subject of separate Decisions.

Procedural Matters

3. This is an appeal against the failure of the Council to determine the planning application within the prescribed period. The Council has subsequently provided a statement of case for the purposes of the appeal which confirms that subject to the imposition of conditions, including one to prevent the buildings being used to accommodate livestock, it does not object to the principle and details of the proposed development. I have taken account of this in framing the main issue below.

4. When the appeal was submitted, the appellant did not include a full statement of case. In order to comply with the 'Procedural Guide Planning Appeals – England' , a statement of case was subsequently provided and the Council and third parties were given an opportunity to comment on it. I have taken account of those comments in coming to my decision on the appeal.

5. A screening direction was issued dated under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulations 14(1) and 7(5) of the EIA Regulations, the Secretary of State directed that the development is not EIA development.

6. An appeal for the development of two general purpose agricultural buildings and two silos on the appeal site was dismissed on 30 December 2019[1]. I have had regard to that decision in my assessment of this case, but I have determined this appeal based on the evidence and information submitted with this appeal and my visit to the site.

7. The revised Design and Access Statement (Revision C)[2] submitted with the planning application confirms the proposed use of the buildings and the appellant has indicated his agreement to a planning condition that would prevent them from being used for pig accommodation. I have determined the appeal based on the description of the proposed development and the evidence before me and for the avoidance of any doubt, the appeal proposal is for two general purpose buildings and two silos to store equipment, vehicles, feed, bedding and other provisions in conjunction with the pig rearing use of the site.

Main Issue

8. The main issue in this case is the effect of the development on the character and appearance of the area and whether the benefits of the proposal would demonstrably outweigh any harm identified in that regard.

Reasons

9. The appeal site is located approximately 0.4 km to the west of Apley and was previously used for oil exploration in the 1980s. It comprises a 0.7 hectare parcel of land, inset from the surrounding field with the site boundaries demarcated by a mature hawthorn hedge to the road frontage and a combination of low bunding, a post and wire fence and new hedge planting to the west, north and east boundaries. The lane is single track, but the site has a wide gated access.

10. The appeal site occupies an elevated and exposed position within open countryside. The wider landscape is characterised by open and undulating fields, mainly in arable cultivation and affording long distance views in all directions. Despite occasional blocks of woodland and tree belts, there is a high degree of intervisibility between public viewpoints to the north, west and south of the site. When approaching from Apley, the intervening hedgerows and topography provide additional screening, such that the site is less visible from this direction.

11. At my site visit there were two enclosures in the north west and south east areas of the site which each contained an arc and approximately 20 – 30 piglets in each. A straw bale enclosure in the middle of the site accommodated an arc and, based on what I saw at my visit, one adult pig. A number of other materials and machinery were also stored on the site including bales of straw bedding, fodder, a large mound of straw material, two separate mounds of topsoil and a number of vehicles and trailers with some stored in an open sided enclosure adjacent to the frontage boundary. Two large storage tanks were positioned at the side of the access.

12. Although the mound of straw material is visible from longer distances to the north, west and south, the existing equipment and tanks on the site can be glimpsed but are not unduly prominent in the wider landscape. However, due

[1] Appeal Ref APP/N2535/W/19/3235657
[2] Submitted 2.7.20

to the combination of the site's elevated and exposed location, the low height of the boundary screening and the footprint and bulk of the proposed buildings, they would be extremely prominent and intrusive in the wider landscape. Building 1 would be particularly conspicuous when viewed from long distance public vantage points due to its overall length of 27 metres and unbroken roof ridge. The buildings and the silos would be readily visible across a wide area, from Sparrow Lane to the north, from the lane to Low Apley to the west and from the Viking Way long distance trail to the south of the Main Street/Sparrow Lane junction.

13. The proposed building form and construction materials would be characteristic of other agricultural buildings commonly found in the area. However, these are predominantly found in proximity to other buildings on larger farm holdings. The proposed development would be in an isolated and exposed location on a small parcel of land, unrelated to any larger agricultural holding or farm steading.

14. For the reasons outlined above, I conclude that the extent of the harm to the landscape would be significant. I acknowledge that this differs from the Council's conclusion on the matter but based on my site visit I do not share the Council's conclusion that the landscape is flat and that the existing bund and peripheral landscaping would help to screen the proposed development to some extent.

15. In accordance with paragraph 54 of the National Planning Policy Framework (the Framework), I have considered whether a condition could be imposed to secure additional boundary treatment to supplement the existing bunding and hedge planting which would help to mitigate the visual impact of the development. However, in the absence of further details, I cannot be certain that such a scheme would be effective in achieving an acceptable level of mitigation and in these circumstances, such a condition would fail to meet the tests for conditions set out in the Framework and the Planning Practice Guidance.

16. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the character and appearance of the area. There would be conflict with CLLP Policy LP26 in so far as it requires new development to respect landscape character and identity and relate well to the site and surroundings in relation to siting, height, scale, massing and form.

17. There would be further conflict with CLLP Policy LP17 which seeks to protect the intrinsic value of the landscape and states that particular consideration should be given to views which are more sensitive to change due to their open, exposed nature and extensive intervisibility from various viewpoints. However, Policy LP17 also states that where a proposal may result in significant harm, it may exceptionally be permitted if the overriding benefits of the development demonstrably outweigh the harm and in these instances the policy requires that the harm should be minimised and mitigated. I now deal with this issue.

18. Limited details of the pig rearing business have been supplied. At the time of the planning application, the numbers of pigs on site were indicated to be 70 and with 30 weaner pigs 'due to be delivered within the next 10 days'. Reference is made to recent approval for a 200 breeding sow unit on 6 hectares of land at Kirkby on Bain to supply weaners to the appeal site for

fattening. However, no further details have been provided of how the two units would operate in conjunction with one another.

19. The buildings would not accommodate livestock but would be used to store a teleporter for moving straw, tractors, trailers for transporting straw, spare pig arcs, livestock movement containers, an office/medication store, quarantine and welfare provisions. The need for the silos is justified for the dry storage of feed. However, there are no further details of the quantity or space requirements of the vehicles and other equipment and where they would be accommodated within the buildings.

20. The appellant's Management Plan contains some details of how the site would operate and how animal welfare would be managed. It also confirms that the end product would be of a high quality and of local provenance, contributing to the local economy. However, no details of the turnover of the business or its output have been provided. Nor is it clear how the new buildings and silos would support an additional full time and part time job as indicated in the planning application form.

21. As such, I cannot be certain that the two buildings of the scale proposed are commensurate with the scale and functional needs of the pig rearing business that is currently operating from the site or how they would meet future needs. The extent of the benefits that would arise to the business and the wider economy are not specified. There would be conflict with CLLP Policy LP55 in so far as it supports non-residential development in the countryside where the location is justifiable to maintain or enhance the rural economy and that the development is of a size and scale commensurate with the proposed use and with the rural character of the location.

22. The Framework supports a prosperous rural economy and the development of agricultural businesses and acknowledges that sites may have to be found beyond existing settlements. However, it also indicates that in these circumstances, it will be important to ensure that development is sensitive to its surroundings and at paragraph 170 states that decisions should recognise the intrinsic character and beauty of the countryside.

23. I have concluded that the proposed development would cause significant harm to the character and appearance of the area. There is nothing in the evidence which would enable me to conclude that the appeal scheme would have overriding benefits which would demonstrably outweigh the harm identified. For this reason, the appeal proposal would conflict with CLLP Policy LP17 and with the provisions of the Framework in relation to conserving and enhancing the natural environment.

24. I recognise that the Council has not defended the appeal and that I have reached a different conclusion from the Council on the main issue in this case. However, I have come to my decision based on the circumstances of the site, the details of the proposal and the evidence before me.

Other matters

25. The previous appeal was dismissed for reasons including harm to a minerals safeguarding area. However, for the purposes of this appeal, Lincolnshire County Council has confirmed that having regard to its scale, nature and location the proposed development would have a negligible impact on

sterilising the mineral resource. Had the appeal been allowed, there would have been no reason to come to a different conclusion on that matter.

26. I am also satisfied that details of a method to deal with any unidentified contamination as construction progresses could have been dealt with by means of a planning condition had the appeal been allowed. In coming to that view, I have had regard to the comments from the Council's Environmental Protection Officer. Similarly, drainage arrangements could also have been dealt with by means of a suitably worded condition.

27. Representations have been made about the adequacy of the local highway network to accommodate the vehicular movements that would be generated by the proposal. However, the Highway Authority has not objected to the proposed development and had the appeal been allowed, I see no reason to disagree with that assessment.

28. Previous events and activities on the site are not matters that can be taken into account in the determination of this appeal which is based on the planning issues in the case.

29. The appellant has indicated that permission for a barn at Hoop Lane, Apley was granted without an appraisal, justification or management statement. However, in the absence of further details including the site context, I cannot be certain that it is comparable with the case before me.

30. I also note the support for the proposal in terms of its environmental impact. However, neither this nor any of the other matters raised are of sufficient weight to outweigh my conclusion in relation to the main issue in this case.

Planning Balance and Conclusion

31. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan, unless material considerations indicate otherwise.

32. I have found that the proposal would cause significant harm to the character and appearance of the area and would conflict with CLLP Policies 17, 26 and 55. There are no material considerations in this case of sufficient weight to outweigh that harm and the conflict with the development plan, read as a whole. Accordingly, there is nothing to justify a decision other than one in accordance with the development plan.

33. For the reasons outlined above, and having had regard to all other matters raised, the appeal should be dismissed.

Sarah Housden

INSPECTOR