



Appeal Decision

Site visit made on 30 June 2021

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 02 July 2021

Appeal Ref: APP/W3520/W/20/3258744

Land Southwest of School Lane, Fressingfield, Suffolk

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the same Act, for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by The Trustees of Fressingfield Baptist Church, against the decision of Mid Suffolk District Council.
 - The application Ref DC/20/01400, dated 2 April 2020, was refused by notice dated 10 July 2020.
 - The application sought planning permission for the erection of a new Baptist chapel, car parking and access, and up to 18 residential units, without complying with a condition attached to planning permission Ref 3872/16, dated 4 July 2018.
 - The condition in dispute is No 23 which states: *"The working hours during construction shall be restricted to 0800 hrs to 1800 hrs Mondays to Fridays and 0800 hrs to 1300 hrs on Saturdays. There shall be no working hours on Sundays or Bank Holidays"*.
 - The reason given for the condition is: *"To protect the occupiers of the neighbouring and proposed residential properties suffering loss of amenity or nuisance"*.
-

Decision

1. The appeal is dismissed.

Background

2. The development approved under reference 3872/16 is a hybrid permission, in two parts, each with their own separate sets of conditions. Condition 23, which is the subject of this appeal, is one of the set which applies to the proposed new chapel, car park and access.
3. As it stands, the hours permitted by Condition 23 are 08.00 – 18.00 on Mondays to Fridays, and 08.00 – 13.00 on Saturdays, as set out above. The amended hours sought by the appellants are 07.30 – 17.00 pm on weekdays and 07.30 – 13.00 on Saturdays.
4. Working hours on the residential elements of the proposed scheme are subject to Condition 49. That condition is not included in the present appeal.

Reasons for decision

5. I saw on my visit that work on the new chapel building, car park and roadway is well advanced, but not yet complete. This part of the appeal site adjoins Nos 1 - 3 Oatfields and No 12 Sancroft Way. All of these existing residential properties are within about 20m from the site boundary. No 12 Sancroft Way, which is set sideways-on, is considerably closer. A number of other properties in both of these roads, whilst not directly adjacent, are also within a short distance. It is not disputed that the works which still remain to be completed

- on this part of the development are likely to include some operations giving rise to significant levels of noise. Nor is there any apparent doubt that such noise will be clearly audible at the properties that I have identified.
6. The proposed variation to Condition 23 would bring the start time on weekdays forward to 07.30. That is a time of day when the background noise level is likely to be relatively low, and many residents would expect to be able to enjoy a degree of peace and quiet, before starting on the day's activities. To my mind, such an expectation is not unreasonable. Carrying out potentially noisy building works at that time, close to existing dwellings, would therefore be likely to involve a significant intrusion on the occupiers' enjoyment of their properties. As such, the change now proposed would have an unacceptably adverse impact on those neighbours' living conditions.
 7. I appreciate that the hours proposed by the appellants would also mean that work would be required to finish an hour earlier than the time that Condition 23 currently requires. The total working hours would thus be reduced. But the hours of 17.00 – 18.00 are ones during which many people are still engaged in household activities. That time of day is therefore one when most people's sensitivity to noise is likely to be less than at 07.30. An earlier start and finish is said to be preferred by construction workers. However, this does not outweigh the considerations that I have identified, relating to the likely effects on neighbouring occupiers.
 8. I note that school clubs are said to start from 07.45, generating vehicle movements at around that time. But given the location of the school entrance and car park in School Road, well away from Oatfields and Sancroft Way, it is unlikely that residents in those roads are currently affected by any noise emanating from those early school activities or related traffic.
 9. In addition, there is no evidence that the start of construction at 08.00 causes any conflict with school traffic. Nor is it clear how any such conflict, if it did exist, would be relieved by an earlier start to the building works, since construction traffic would not cease at the new starting time of 07.30, but would be likely to continue throughout the day.
 10. I note that a starting time of 07.30 is said to have been approved on another development in the village. But no two sites are identical, and I have considered the present appeal on its own merits, taking account of the particular circumstances of the appeal site and the development in question.
 11. I accept and appreciate the appellants' desire to achieve the earliest possible completion of the building works. But the retention of Condition 23 in its existing form does not seem to me to prevent this.
 12. In reaching my decision, I have had regard to the Ministerial Statement dated 13 May 2020. But this does not support permitting building works to take place in the very early morning period as now proposed.
 13. I conclude that the proposed change to Condition 23 would result in existing occupiers being put at risk of unacceptable noise pollution, contrary to paragraph 170 (e) of the National Planning Policy Framework. The appeal is therefore dismissed.

J S Felgate
INSPECTOR