

# Appeal Decision

Site visit made on 28 July 2021

**by K Savage BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: Friday 17 September 2021**

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**Appeal Ref: APP/P3040/W/21/3269416**

**Field alongside of Willow Cottage, Sutton Lane, Sutton Cum Granby, Nottinghamshire NG13 9QA**

- 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 Barrie Roberts (Elton Park Farms) against the decision of Rushcliffe Borough Council.
  - The application Ref 20/01645/FUL, dated 25 June 2020, was refused by notice dated 28 January 2021.
  - The development proposed is provision of 537m<sup>2</sup> intensive pig rearing unit for and in connection with the applicant's farming business.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for an award of costs was made by Mr Barrie Roberts (Elton Park Farms) against Rushcliffe Borough Council. This is the subject of a separate Decision.

## Preliminary Matter

3. The revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with the opportunity to comment on the relevance of this revision to the Framework to their respective cases.

## Main Issue

4. The main issue is the effect of the proposal on the living conditions of neighbouring residents, with respect to noise, disturbance and odour.

## Reasons

### *Site Context*

5. The appeal site comprises the majority of a long, narrow, open agricultural field accessed from the main road in the small hamlet of Sutton-Cum-Granby. A dwelling, Willow Cottage, stands immediately adjacent to the appeal site and the field access. The surroundings are distinctly rural, with expansive open countryside extending in all directions beyond the narrow, linear development along Sutton Lane.
6. The proposal is for the establishment of an intensive pig rearing facility on the land. This would include a cluster of development at the rear of the field

comprising a pig rearing building measuring nearly 43 metres long by 12.5 metres wide, two 8-metre high feed silos, storage areas for manure and dirty water, an attenuation pond, loading and unloading areas, parking for slurry lorries and hardstanding areas in between. This area would be accessed by a new access road running from the existing entrance point along the southern boundary of the field. The remainder of the site would be a free range area for pigs with shelters set out across the field.

7. The proposed development is itself described as an intensive operation. The appellant indicates that the unit would support up to 728 places for pigs as a finishing unit with the external area having up to 216 free range pigs. These numbers are indicated to be based on current best practice, though the source of this is not given. Based on these figures, the site would be capable of hosting up to 944 pigs at any one time. This would be a significant and wholesale change to the type and level of activity on the site, given the field appears to be used for arable farming at present, with no buildings on the land.
8. The Council's concerns relate to noise and odour produced by the operation, and impacts from traffic, on the living conditions of the neighbouring residents. Given the proximity of Willow Cottage to the site, its occupants would be sensitive to noise, odour and general activity taking place on the site.

#### *Noise and Odour*

9. The proposal includes operations which, by their nature and proposed scale, would have the potential to cause noise and odour. Given this, the Council's Environmental Health Officer requested noise and odour assessments to be submitted. The appellant argues that such assessments cannot be provided in the absence of any parameters from the Council as to acceptable levels. Further, the appellant points to a guidance document 'IPPC SRG 6.02 (Farming)' dating from 2005, relating to the control of environmental impacts from various operations, including pig rearing, which indicates that an odour assessment is not required where the nearest receptor is more than 440 metres away or the unit holds less than 750 sows, measures which apply to the appeal scheme.
10. However, the status of this guidance is not clear. The Council suggests it has been superseded, though this is unconfirmed, and it points out that it is not a planning-specific document. Ultimately, I have limited information about this document, from which only a small excerpt is provided. Therefore, whilst it provides some context, it has limited status in planning terms, and is not a document upon which I place decisive weight.
11. Conversely, the Council points to guidance from the Institute of Air Quality Management which refers to the role of the planning system in guiding development to the most appropriate locations with significant sources of odour ideally separated from odour-sensitive users of the surrounding land. This guidance identifies livestock odour as 'moderately offensive', indicating it is a potentially significant source of odour that may require control or mitigation.
12. However, there is little tangible evidence before me of the expected levels of odour which may be generated by the operation, and I agree with the Council that the proposal provides an incomplete picture of its potential impacts. That said, it is not unreasonable to consider that the operation would generate significant odour, particularly from slurry, manure and the pigs themselves.

Even though the majority of the pigs would be located more than 440 metres from the neighbouring dwelling, operations across the overall site have the potential to generate odour that would be perceptible by neighbouring occupants, particularly odour from the free range pigs occupying the top end of the field next to the garden of Willow Cottage. In the absence of any details of the expected sources of odour, and given the scale and proximity of the operation, I cannot rule out that there would be tangible adverse effects for neighbouring occupants in terms of livestock odour.

13. In terms of noise, the appellant argues that a noise assessment could not have been produced without parameters to work to, and that various British Standards are not applicable to agricultural buildings. However, it was not beyond the appellant to describe the use in greater detail, such as any machinery which would operate, any noise generating processes and the times of day when various activities would take place, and to measure background noise levels, so as to allow an assessment to be made as to the risk of harm from noise. No such evidence has been provided, but on the basis of the number of animals, and the brief description of activities, which include overnight operations, I find that there would be significant risk of disruptive noise from the operation of the facility which would be harmful to neighbouring occupants.

#### *Traffic*

14. The proposed access would run immediately alongside the side elevation, garage and rear garden of Willow Cottage. Consequently, neighbours would be subject to noise from vehicles entering and exiting the site at close range. The details of the proposed operation are limited, but it is indicated that four trips per day would be made by site operatives, with the potential for additional trips at night. In addition, the appellant provides an estimate of 13 trips per month by large vehicles and trailers for feed and straw delivery, slurry removal and transporting of pigs from the site.
15. The appellant's estimates are not significant in absolute terms, and I note no objection is raised in terms of highway safety. However, it is indicated that the site would have an overnight operative, which raises the possibility of vehicles entering and leaving the site during the night. Moreover, the appellant states that staffing levels may fluctuate during times of high birthing yields, with parking for 10 to 12 vehicles proposed. The appellant also states that slurry removal would take place weekly, but the trip estimates account for just one slurry removal per month.
16. The evidence before me is limited and in some places contradictory. The number of journeys predicted appears to be an underestimate, and does not give an indication of the volume of traffic that could be expected during the busiest periods. However, it is possible that the facility would generate greater numbers of journeys to and from the site than estimated, certainly during busy birthing periods. These journeys would involve large vehicles passing directly by the neighbouring dwelling and its garden. Whilst I note the existing access is adjacent to Willow Cottage, it is evident that the field is accessed only sporadically for sowing and harvesting, and is not comparable to the proposed volume, frequency or times of traffic to and from the facility.

17. I note reference to an earlier appeal decision<sup>1</sup> relating to a site at the front of the field, where the Inspector found no harm to neighbours' living conditions from traffic generated by a proposed grain store. However, this was for a different form of development with an estimate of just one vehicle per day, and more only at harvest time. This is not comparable to the volume of traffic which would arise as a result of the proposed pig rearing facility. The facility would also not have been immediately adjacent the neighbouring property. Consequently, I do not consider that this earlier decision binds me to a similar conclusion.
18. For these reasons, I find that the proposal would give rise to a significant increase in agricultural traffic within a presently quiet, rural environment that would cause noise and disturbance to occupants of the adjacent dwelling and harm their living conditions.

### *Conclusions on Main Issue*

19. Drawing my findings together, I conclude that the proposed operation would be capable of generating significant noise, odour and traffic which would significantly harm the living conditions of occupants of the neighbouring dwelling, Willow Cottage. No forms of mitigation or control have been advanced which could overcome this harm. Therefore, I find there would be conflict with Policies 1, 39 and 40 of the Rushcliffe Local Plan Part 2 (October 2019) (the LPP2) in so far as they seek to protect the amenity and health of adjoining occupants and reduce the effects of pollution, including from noise and odour.
20. Moreover, the appellant has provided no explanation as to why the facility is required to be located on this particular site, given it is isolated from other farm buildings and the main farm complex. In light of this, and given the harm to living conditions identified, the proposal would not be well integrated with existing buildings, contrary to the requirements of Policy 22 of the LPP2.

### **Other Matters**

21. The proposed facility would generate economic activity for the appellant and the local area, including four additional jobs. Given the support of the Framework for rural enterprise, I afford moderate weight to these benefits.
22. The Council did not find harm in respect of the effect on the character and appearance of the area. Given the agricultural nature of the buildings and proposed screening landscaping, I do not reach a different view in this respect. Similarly, I have no compelling evidence to reach different conclusions in respect of flood risk or highway safety. However, an absence of harm in these respects is a neutral factor weighing neither for nor against the proposal.
23. I have had regard to other concerns raised by interested parties in respect of matters not already addressed, including the suitability of the soil, vermin, drainage and light pollution. However, the evidence before me in these matters is limited and does not lead me to the view that these matters would cause further material harm to be factored into the planning balance.
24. There is a Grade II listed building, Highfield House, on the opposite side of the main road. The Council has not made a finding of harm to the setting of this listed building. Given the separation distance between the proposed facility and

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<sup>1</sup> APP/P3040/W/20/3263711, dismissed 26 March 2021

the listed building, with intervening hedgerows and buildings, I am satisfied that the proposal would preserve the setting of this listed building.

### **Conclusion**

25. In my judgment, the benefits of the proposal would not amount to material considerations which would outweigh the identified conflicts with the development plan, to which I afford significant weight, and would not justify a decision being made other than in accordance with the development plan, taken as a whole.
26. Therefore, having regard to all matters raised, the appeal should be dismissed.

*K Savage*

INSPECTOR