



Appeal Decision

Site visit made on 21 February 2022

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2022

Appeal Ref: APP/W2845/W/21/3287043

Stonewold, Crabtree Lane, Cold Ashby, Northamptonshire NN6 6EF

- 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 Mathew Haynes against the decision of West Northamptonshire Council.
 - The application Ref WND/2021/0055, dated 16 April 2021, was refused by notice dated 22 September 2021.
 - The development is to park a mobile milk distribution vehicle and a mobile refrigerated trailer on a designated parking area at 'Stonewold'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As is apparent from the submitted evidence and consistent with my own on-site observations, the intended use has already commenced. The proposal is thus retrospective, and I shall consider the appeal on this basis.

Main Issues

3. The main issues are:
 - The effect upon the living conditions of neighbouring residential occupiers, having particular regard to noise; and
 - The effect upon highway safety.

Reasons

Living conditions – noise

4. The site is situated in a residential part of the village of Cold Ashby. I witnessed very limited activity along Crabtree Lane (the Lane) during the course of my inspection. Indeed, the site occupies a quiet residential location set away from Main Street and the village's public house.
5. The Council's concerns are, in-part, centred upon noise associated with the delivery of milk to the site. I am led to understand that these deliveries occur during early morning hours at a frequency of three times per week and have consisted of milk being transferred by crate from a delivery lorry to the appellant's mobile distribution vehicle and/or mobile refrigerated trailer.
6. The appellant has stated that, in recent times, transfers of milk have been occurring off-site, outside of the village in a local lay-by and thus distanced

from any sensitive residential receptor. He has also stated an acceptance to a potential planning condition being imposed, should the appeal be successful, requiring that no milk deliveries are made directly to the site nor to any other address on the Lane.

7. When noting the inherently mobile nature of the distribution vehicle, I am content that a suitably reasonable, enforceable and precise condition could be drafted to offer satisfactory assurances that, without prejudicing effective commercial operations, delivery lorries would not access the Lane. On this basis, any potential milk transfers at the site would be restricted to between the appellant's own distribution vehicle and trailer. Such actions would, to my mind, hold limited potential to create noise or disturbance.
8. Nevertheless, the Council's concerns extend to the effect of noise emitted from the refrigerated trailer. I experienced no audible noise during the course of my inspection, but this would be because the refrigeration plant is temperature controlled and does not operate when daytime temperatures are low (or during night-time hours for similar temperature related reasons).
9. It is apparent from the evidence before me that noise complaints have been forthcoming as regards operations at this site and it is my understanding that plant noise has been the primary focus of these complaints. The Council's Environmental Health Officer has confirmed that sound recordings have indicated that, when the refrigeration plant is operational, a low frequency noise is generated that impacts the occupiers of neighbouring properties both inside and outside. In corroboration with this position, representations have been received during the planning process from numerous local occupiers that reference unwanted noise associated to the operation of refrigeration plant.
10. I do not have before me full details of the plant's specification, nor has survey/assessment work been carried out on behalf of the appellant in the interests of seeking to illustrate how noise generated at the site compares to background noise levels. It is also unclear whether mitigation measures are required and/or suitably implementable. Thus, in the circumstances of this case, it has not been satisfactorily demonstrated that the appellant's business operations have an acceptable effect upon nearby sensitive receptors. For the avoidance of doubt, given the uncertainties that apply, a noise report (or similar) could not be appropriately secured by condition.
11. Furthermore, I do not accept any assertion made that the absence of full details of the recordings retrieved by Environmental Health implies an acceptable situation. Indeed, these recordings were undertaken for the purposes of investigating a potential statutory nuisance outside of the planning process. With respect to the development in question, the onus falls upon the appellant to demonstrate acceptability.
12. For the above reasons, in the absence of supportive evidence to clearly indicate otherwise, the development causes harm to the living conditions of neighbouring residential occupiers having particular regard to noise. The scheme conflicts with Policy R2 of the West Northamptonshire Joint Core Strategy (December 2014) (the JCS), Policies ENV10 and RA3 of the Settlements and Countryside Local Plan (Part 2) (February 2020) (the P2LP) and the National Planning Policy Framework (July 2021) (the Framework) in so far as these policies require proposals to respect the environmental quality of the rural area and to protect the amenity of existing residents.

Highway safety

13. The Lane is a narrow highway route that is not well suited to accommodating the movement and/or waiting of large delivery vehicles. Nevertheless, as set out above, I have found that a condition stipulating that no milk deliveries are to be made directly to the site, nor to any other address on the Lane, could be satisfactorily imposed whilst meeting the relevant tests for conditions set out at Paragraph 56 of the Framework.
14. Moreover, there are off-site locations better suited than the Lane to safely accommodating delivery vehicles. These include the out-of-village location recently utilised by the appellant and referenced above. Whilst any condition seeking to secure the precise location of remote milk deliveries in perpetuity would likely be unduly difficult to monitor and enforce effectively, due to the relatively limited regularity of the deliveries necessitated and their realistically brief duration, I am sufficiently content that satisfactory arrangements have been identified and that highway safety is not prejudiced.
15. For the above reasons, subject to a planning condition being attached to any permission to guard against delivery lorries accessing the Lane, the development has an acceptable effect upon highway safety. The scheme accords with the Framework in so far as it sets out that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

16. In terms of benefits, the scheme supports rural enterprise, and it is apparent that the services provided by the appellant are of a high standard, reliable and appreciated across a wide catchment. Indeed, various representations of support from local businesses and residents have been submitted. I also accept that, through promoting reduced trips and the reuse of glass bottles, there would be environmental benefits associated with a doorstep delivery service.
17. Overall, I have identified that there is conflict with the development plan taken as a whole, as the development does not accord with Policy R2 of the JCS and Policies ENV10 and RA3 of the P2LP causing significant harm to residents' living conditions. Considered in total, the material considerations referred to above, although considerable, do not outweigh the conflict with the development plan. Consequently, the development also conflicts with Policy SA of the JCS regarding the presumption in favour of sustainable development.

Conclusion

18. Whilst I have found the development to be acceptable with respect to its effect upon highway safety, I have identified harm to the living conditions of neighbouring residential occupiers having particular regard to noise. This harm is the overriding consideration in this case. Thus, for the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR