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# Appeal Decision

Site visit made on 28 June 2022

**by C McDonagh BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> July 2022**

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**Appeal Ref: APP/N2739/W/22/3290556**

**Lodge Farm Estate, Lordship Lane, Wistow, Selby YO8 3RS**

- 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 Richardson against the decision of Selby District Council.
  - The application Ref 2021/0316/FUL, dated 9 March 2021, was refused by notice dated 16 July 2021.
  - The development proposed is the conversion of agricultural barn to 3 nos. commercial units.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Although not mentioned in the description of development in the banner heading above, which is taken from the planning application form, it is not disputed that the development has already taken place. The appeal is therefore considered on a retrospective basis.

## Main Issue

3. The main issues are as follows:
  - The effect of the development on the living conditions of occupiers of adjacent dwellings, with particular regard to noise;
  - Whether the development site is at an unacceptable risk from flooding;
  - Whether the development provides acceptable parking provision for staff and visitors and any resulting effect on highway safety;
  - The effect of the development on the character and appearance of the area; and
  - Whether the appeal site constitutes a suitable location for the development with regards to the spatial strategy for the plan area.

## Reasons

### *Living Conditions*

4. The appeal site is located adjacent a dwelling within the Lodge Farm yard area, which the site location plan (B001 23.2.2021) identifies as Lordship Lodge. There is also a further dwelling on the opposite side of Lordship Lane within a cluster of buildings, known as Ladyship Barn circa 70m away. I note the

appellant's appeal statement stipulates that there are no neighbouring occupiers. While either dwelling may not currently be occupied, there is nothing before me to indicate this would not change in future and the homes could be inhabited at any time.

5. At the time of my site visit I found the area was very quiet, aside from the occasional passing car. Given the proposed use class, the development has the potential to introduce significant noise to the area. There is anecdotal evidence before me that one of the units is currently used for motorcycle repair which uses machinery that can generate noise of up to 60 decibels. Alongside other processes such as hammering or use of other power tools, potentially from three units working concurrently, this has the potential to cause significant noise disturbance to neighbouring occupiers. Furthermore, there is no evidence of an assessment of noise being carried out or any subsequent mitigation which could be required.
6. In the absence of any evidence to indicate otherwise, for the reasons above, I conclude that the development is likely to be harmful to the living conditions of neighbouring residents with particular regard to noise. This is contrary to Policies ENV1 and EMP8 of the Selby District Local Plan – Part 1 General Policies (LP) (adopted February 2005), which seek to ensure amenity of adjoining occupiers is not harmed, among other things. The development is also contrary to paragraph 130 of the Framework which states decisions should ensure that developments maintain a high standard of amenity for existing and future users.

#### *Flood Risk*

7. The appeal site is located in Flood Zone 3a. As a building to be used for general industry, this is classified as less vulnerable as per Table 2 of the Flood Risk Vulnerability Classification<sup>1</sup> in the Planning Practice Guidance (PPG). This makes the development appropriate in Flood Zone 3a as per Table 3 of the Flood Risk section<sup>2</sup> of the PPG. The submitted Flood Risk Assessment (FRA) advises that the sequential and exceptions tests are not required to be applied as per the notes to Table 3. This is not disputed by the Council.
8. I understand that the site is in an area benefitting from flood defences. However, paragraph 167(b) of the Framework states that development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment.
9. The property is in an area which is at high risk of flooding, and even with defences in place the risk remains. In line with national policy, it is important to ensure that the risks are fully considered so that appropriate mitigation is put in place. The information within the FRA is not sufficient to adequately consider the flood risks and how the building is resistant and/or resilient to flooding. As such, I cannot conclude that appropriate mitigation is in place to safely manage the risk of flooding.

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<sup>1</sup> Paragraph: 066 Reference ID: 7-066-20140306

<sup>2</sup> Paragraph: 067 Reference ID: 7-067-20140306

10. It has not therefore been demonstrated that the site is an appropriate location for the development with reference to its vulnerability to flooding. Consequently, the development conflicts with paragraph 167(b) of the Framework as detailed in the foregoing chapters.

#### *Parking and Highway Safety*

11. The appeal building is located towards the rear of the site when viewed from Lordship Lane. Vehicular access from this road is taken through a metal gate near to the bend in the highway and along a track formed of compacted hardcore. I observed on the site visit that several vehicles were parked along the hardstanding and elsewhere within the wider Lodge Farm site.
12. The planning application form details there are to be six parking spaces to be created as part of the development. However, these are not marked on the submitted plans. While there appears to be adequate space to provide this number of spaces, there is insufficient evidence before me to demonstrate how this would be carried out. Moreover, were all three units to be occupied, the number of customers visiting the site, alongside vehicles parked by staff, could potentially be significant. This could lead to a lack of parking provision within the site. Were this to occur, vehicles parked on the highway would present a significant collision risk to users of Lordship Lane given its narrow width and sharp bend in this location.
13. Based on the above, I share the concerns of the Council that adequate parking provision has not been demonstrated and insufficient evidence is before me to ascertain whether the development could provide the necessary level of parking to ensure highway safety is maintained. This is contrary to Policies ENV1, T1 and EMP8 of the LP, which seek to ensure, among other things, that development considers the relationship of the proposal to the highway network, the proposed means of access and the arrangements to be made for car parking. The development is also contrary to paragraph 111 of the Framework which advises development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

#### *Character and Appearance*

14. The appeal building comprises a single-storey structure with a pitched roof and four metal roller shutters to the front elevation. The wider site is evidently a former farm which includes several outbuildings, some of which have been converted to other uses, such as a large building in the centre of the site which also includes metal shutters. The area is predominantly rural, with large expanses of agricultural land to all directions, while to the other side of Lordship Lane lies another cluster of buildings which includes a dwelling and several outbuildings.
15. Although I take on board the concerns of the Council with regard to the appearance of the building, the roller shutters are not out of place in the immediate setting of Lodge Farm as the adjacent larger building also contains ostensibly similar shutters. The appeal building is utilitarian in its design and although I am informed it was formerly dilapidated, I have no evidence of its prior appearance before me. Therefore, I cannot be certain that the works are not an improvement over the former state of the building as stated. As it stands, the pitched roof and elements of brick and blockwork do not appear

incongruous for a building of this type and the design is not unusual in this context.

16. Moreover, in longer range views on Lordship Lane from the north and southeast, the building is not prominent in the landscape given its location to the rear of the site behind the aforementioned larger building. From this distance, the metal shutters are not conspicuous, while the block and brickwork is also evident on adjacent buildings.
17. Taken together, the building does not harm the character and appearance of the area in accordance with Policies ENV1 and EMP8 of the LP. These state, among other things, that development will be permitted provided a good quality of development would be achieved, including the effect upon the character of the area and the standard of layout, design and materials in relation to the site and its surroundings. The development also accords with the Framework which seeks to ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting

#### *Whether Suitable Location*

18. Policy SP2 of the Selby District Core Strategy Local Plan (CS) (adopted October 2013) sets out the spatial strategy of future development within the plan area with most being directed to towns and designated service villages. For the purposes of SP2, the appeal site is located outside of development limits and is therefore in the countryside. SP2 states that in the countryside, development will be limited to, among other things, the re-use of buildings preferably for employment purposes and well-designed new buildings of an appropriate scale which would contribute towards and improve the local economy and where it will enhance and improve the vitality of rural communities, in accordance with Policy SP13.
19. Policy SP13 states that in rural areas, sustainable development (on both Greenfield and Previously Developed Sites) which brings sustainable economic growth through local employment opportunities or expansion of businesses and enterprise will be supported. This includes the re-use of existing buildings and the development of well-designed new buildings.
20. Policy EMP8 of the LP advises proposals for the conversion of rural buildings for commercial, industrial or recreational uses will be permitted provided that the building is structurally sound and capable of re-use without substantial re-building; and, the proposed re-use or adaptation will generally take place within the fabric of the building and will not require extensive alteration, re-building and/or extension, among other requirements.
21. There is dispute between the parties as to whether the works to the building constitute a conversion or a rebuild. Although Policy EMP8 advises that the conversion of existing buildings is acceptable in principle, both Policies SP2 and SP13 of the CS allow for both the re-use of existing buildings and well-designed new buildings. I have concluded in the previous section of this report that the building, while utilitarian in its appearance, does not harm the character and appearance of the area due to its design. Therefore, regardless of whether the building was rebuilt or whether it was previously capable of conversion, it accords with the spatial aims of both SP2 and SP13, which also support new buildings.

22. Moreover, this approach is consistent with the National Planning Policy Framework (the Framework) at paragraph 84(a), which advises planning decision should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings.
23. Furthermore, the development supports employment uses in a rural area. This conforms with paragraph 85 of the Framework, which advises decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
24. Based on the foregoing, the development site location is suitable with regards to the spatial aims of the development plan. This accords with Policies SP2 and SP13 of the CS and the general aims of EMP8 of the LP as detailed above. The location is also acceptable with regards to paragraphs 84 and 85 of the Framework.

### **Conclusion**

25. The development conflicts with the development plan taken as a whole as well as the Framework. For the reasons given above, along with all other relevant material considerations, the appeal should therefore be dismissed.

*C McDonagh*

INSPECTOR