



Appeal Decision

Inquiry held on 12 April 2023

Site visits made on 11 and 12 April 2023

by R Norman BA(Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2023

Appeal Ref: APP/Y2003/W/22/3309926

Land at Mannaberg Way, Scunthorpe

- 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 Shaun McCarthy, 2 Agriculture Ltd/Amber Real Estate Investments Holdings against the decision of North Lincolnshire Council.
 - The application Ref PA/2020/1740, dated 26 October 2020, was refused by notice dated 6 May 2022.
 - The development proposed is an agricultural feed mill with ancillary offices and associated infrastructure including silos, ground works, hardstanding, parking and landscaping at land at Mannaberg Way, Scunthorpe.
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural feed mill with ancillary offices and associated infrastructure including silos, ground works, hardstanding, parking and landscaping at land at Mannaberg Way, Scunthorpe in accordance with the terms of the application, Ref PA/2020/1740, dated 26 October 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. Following the submission of additional information relating to noise and odour, the Council concluded that reason for refusal 2 had been adequately addressed and accordingly the weight given to the landscape issues had been reassessed. Consequently, the Council's position had materially changed resulting in them no longer wishing to defend the appeal.
3. There is a new North Lincolnshire Local Plan progressing which was submitted to examination in public in November 2022 with a likely adoption in early 2024. As such, the emerging policies in this plan can be given some weight and I have considered the appeal on this basis.
4. The description of development on the application form and appeal form differs. I have used the description from the appeal form in the above heading as this more accurately describes the proposed development.

Main Issues

5. The main issues are:
 - the effect of the development on the character and appearance of the area; and

- whether it has been adequately demonstrated that the proposal would not result in odour and noise nuisance and would be compatible with the surrounding area.

Reasons

Landscape, Character and Appearance

6. The appeal site comprises an area of undeveloped land set within an existing and well established industrial and commercial area. It is bounded by Mannaberg Way, Bessemer Way and Normanby Road. The proposed development would introduce a new agricultural feed mill into the site, along with associated offices, silos, chimney and parking areas. The site would be accessed via Mannaberg Way
7. The appeal site falls within the National Character Area 45: Northern Lincolnshire Edge with Coversands (NCA 45). This NCA is characterised as having prominent landmarks including steelworks and limited woodland cover, amongst other things. It also makes specific mention of industrial estates, massive sheds and chimneys. At a local level the site falls within the Despoiled Landscape Character Type which makes specific reference to visually intrusive features and notes that they have not been screened or integrated into the landscape.
8. Within the area around the appeal site there are a number of prominent features. These include the British Oxygen Company (BOC) site, Rainham Steel premises, three large blocks of flats known as Crosby Flats, large pylons and, in the wider area, the Scunthorpe Steel Works. These all form tall, notable buildings within the landscape with one of the BOC buildings measuring around 47.4 metres, the BOC chimney around 53.4 metres, the pylons reaching a height of around 35 metres and the flats measuring in the region of 57 metres tall. In addition to the industrial and commercial premises, there are residential properties located nearby, the closest of these being on Bedford Way and Mitre Gardens.
9. The proposed mill building would be the largest part of the development and would have an overall ridge height of just over 44 metres. This would be considerably taller than many of the buildings in the immediate surroundings, nevertheless, would not be as tall as some of the existing dominant buildings referred to above. The overall height of the building has been largely determined by its functional and operational requirements however, with little scope for any reduction.
10. The Appellant has carried out a revised Landscape and Visual Appraisal (LVApp), which has been undertaken in line with the Landscape Institute guidance and the recommendations in Guidelines for Landscape and Visual Impact Assessment Third Edition (GLVIA3) and provided a series of visualisations from an agreed selection of viewpoints in the surrounding area. In terms of landscape effects, the LVApp concludes that the proposed development would give rise to some localised moderate adverse effects on the immediate landscape character however it would not appear out of character within the established landscape character of industrial and commercial developments.

11. The properties on Bedford Way and Mitre Gardens are located adjacent to the existing main carriageway of Normanby Road and are set down from the level of the main road. The gardens of the closest properties rise towards the road level meaning that the rear fencing is set relatively high in relation to the dwellings. Whilst the proposed building would be visible from the upper windows of these properties, the combination of the land levels and the overall distance from the appeal site would limit the visual impact of the development from this location.
12. Based on the evidence before me, I agree that the main effects of the proposal on the landscape character and visual amenity would be predominantly localised and that, given the existing despoiled landscape character, the existing dominant features and the location of the main visual receptors, that the development would not be unacceptably harmful in these regards.
13. I accept that there would be a prominent visual impact arising from the proposed development and that it would be noticeably taller than many of the surrounding sheds. However, the context of the surrounding area is largely defined by the industrial nature of the surroundings in which there are sporadic examples of large scale and visually prominent industrial features.
14. Although the scale of the development would not allow for screening and landscaping other than at the lower levels of the building, a degree of visual mitigation could be achieved through the use of sensitive materials and colours for the external elements of the buildings, which is a matter that could be reasonably secured by condition.
15. As a result of the above, the proposed development would lead to limited and localised adverse effects, however, would not be so harmful to the landscape character or overall visual amenity as to render the development unacceptable, given the existing character and appearance of the area. As such, I find that the proposed development would comply with Policies CS5 and CS16 of the North Lincolnshire Local Development Framework – Core Strategy (2011) (CS) and Saved Policy DS1 of the North Lincolnshire Local Plan (2003) (NLP). Collectively these seek to ensure that development reflects or enhances the character, appearance and setting of the immediate area, is well-designed and appropriate for its context, and creates, improves and maintains green infrastructure assets where appropriate, amongst other things. It would also comply with Policies SS3, DQE1, DM1 of the Emerging Local Plan which seek to ensure that development makes a positive contribution to North Lincolnshire, is of a design appropriate to the area's character in respect of scale, massing layout, function and materials and contributes to the conservation or enhancement of local landscape, amongst other things. The proposal would comply with Section 12 of the National Planning Policy Framework which aims to achieve well-designed places.

Noise and Odour

16. As part of the appeal proofs, additional information has been provided in relation to the potential noise and odour emissions of the proposed development and their likely impacts¹.

¹ Appendices 3 and 4 of Statement of Case (TT-SoC/1)

17. In relation to the potential noise that would be generated by the development, the Appellant has carried out a comprehensive noise assessment including the use of the CadnaA modelling. Calculation uncertainty was factored in including variations in wind speed and direction and ground absorption and the findings were based on worst-case scenarios with an allowance for an overall +6 dB character correction. The assessments carried out provide a significant amount of data and analysis.
18. The proposed development would include acoustic barriers with specific details to be secured by condition and this would provide some further mitigation from any noise impacts, including HGV movements to and from the appeal site. I have also had regard to the character of the surroundings and their industrial nature and associated noise, including HGV and traffic movements, as well as the functionality of the building itself would utilise gravity meaning a reduction in the number of pumps and other generators. Collectively, these would have the effect of reducing the overall noise levels arising from the development.
19. I therefore conclude that, based on the findings of the robust assessments that have been carried out and the nature of the area and proposed mitigation, the development would be unlikely to give rise to adverse noise impacts on the surroundings, including the nearby residential properties.
20. The Appellant has carried out odour assessments, including predictive assessments comprising dispersion modelling. Based on the evidence before me I am satisfied that the assessments carried out are suitable in this case.
21. The proposed development has been identified as falling within the 'moderately offensive odours' category in the H4 Odour Benchmark Levels Table² which provides an established and accepted benchmark level of 3.0 ou_E/m³. Due to current regulations, the raw materials which would be used in the development to manufacture the animal feed would include cereals, wheat and vegetable oils and as such, I consider that the identified category and benchmark level are wholly appropriate in this instance.
22. Based on this benchmark level, the odour assessments have identified that the maximum predicted odour concentrations at all receptors would be around 0.82 ou_E/m³ which would be significantly below the 3.0 ou_E/m³. I note that these findings represent the worst-case scenarios based on a number of variables and that the odour concentrations could be further below this figure.
23. Consequently, based on the evidence and calculations before me, I find the odour assessments to be robust and in line with the relevant guidance and therefore there is unlikely to be any adverse odour issues arising from the proposed development.
24. In both the cases of noise and odour, the operation would also be subject to Environmental Permits which would add further layers of control over the noise and odour emissions emanating from the site. Furthermore, conditions relating to noise and odour management can be imposed to ensure that these matters are satisfactorily mitigated.
25. Consequently, based on the evidence before me, I find that it has been demonstrated that in both cases the levels would be comfortably within the scope of the relevant industry standards and therefore the proposed

² Table 2 Draft Odour Proof of Evidence

development would not give rise to unacceptable or harmful levels of noise and odour. The development would therefore comply with Policies CS16 and CS5 of the CS, Policies DS1 and DS11 of the NLP and Policies SS3(f), CSC1(g), DM1(5) and DM3 of the Emerging Local Plan. These seek to collectively ensure that development does not give rise to significant adverse effects through noise and odour, amongst other things.

Other Matters

26. A Unilateral Undertaking³ has been submitted which makes provision for a financial contribution towards the costs of the creation and management of replacement Open Mosaic Habitat or acid grass land habitat in the local area, with staggered payments of five 20% instalments from the commencement of the development onwards.
27. I have been provided with a CIL Compliance Statement dated March 2023 which provides justification, policy support and details of how the contribution was calculated. Based on the information in this statement I am satisfied that the contribution meets the necessary tests. I have considered the content and structure of the submitted agreement and find it to be legally sound and enforceable.

Planning Balance

28. The proposed development would result in a number of economic benefits. It would give rise to around 80 new jobs, both within the facility itself and also in related professions such as HGV drivers. It would also support a growing industry in relation to the demand for poultry.
29. The Appellant has highlighted the level of need for this type of development, and I note that the Lincolnshire area as a whole has a very high proportion of poultry farms in the UK. The facility would provide around 12,000 tonnes of feed per week to serve these farms. The development would also be in a location with good connections to the wider road networks for HGV deliveries of raw materials and the transporting of the finished product.
30. The provision of a financial contribution towards biodiversity net gain would also be a benefit arising from the development.
31. Consequently, whilst there would be a degree of visual impact as a result of the scale of the proposed main building and limited opportunities for screening other than at the ground level, the overall scale and height has been justified by the functional and operational requirements of the end use and the benefits of the proposed development would outweigh the visual impacts in this instance.

Conditions

32. In addition to the standard time limit condition, I have imposed a condition listing the approved plans as this provides certainty. The Council have suggested conditions which I have considered against the tests in the Planning Practice Guidance.
33. Conditions 3, 4, 23 and 24 are necessary in the interests of protecting the character and appearance of the area. I have imposed conditions 5 and 12 to

³ Dated 28th October 2021

ensure various transport options are available for the end users of the site. Condition 6 is necessary in the interests of highway safety. I have imposed conditions 7, 8, 9 and 10 to ensure that suitable drainage is provided to protect the site and surroundings from flooding and pollution. Conditions 11, 13, 14, 15, 16, 17, 18 and 19 are imposed to protect the living conditions of neighbouring residents. Conditions 20, 21 and 22 are necessary to protect biodiversity and ecological features on and around the site.

34. Conditions 3, 4, 7, 20, and 23 are required to be pre-commencement as it is fundamental to have these details agreed before any works begin on site. The Appellant has confirmed their agreement to these.

Conclusion

35. For the reasons given above I conclude that the appeal should be allowed.

R Norman

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 6477-004 Rev C Proposed Site Layout Plan Option D; 6477-100 Rev C Basement Plan; 6477-115 Rev B Level 45.0000 Roof Plan; 6477-010 Rev A Location Plan; 6477-109 Area Schedule; 6477-112 Rev B Level 10.300 Floor Plan; 6477-114 Rev B Level 32.700 Floor Plan; 6477-113 Rev B Level 22.000 Floor Plan; 6477-124 Rev A Land Sections; 6477-111 Rev B Ground Level Plan; 6477-123 Rev B North Elevation; 6477-121 Rev B South Elevation; 6477-122 Rev B West Elevation and 6477-120 Rev B East Elevation.
- 3) No development shall commence on the weighbridge, office building and vehicle management unit until details of the external appearance and the floor plans and internal layouts have been submitted to and approved in writing by the local planning authority. The above buildings shall thereafter be built and retained in accordance with the approved details.
- 4) No development shall take place until details have been submitted to and approved in writing by the local planning authority of the make, type, colour and finishes of all external facing materials for the development and only the approved materials shall be used.
- 5) The development shall not be brought into use until cycle parking facilities have been provided in accordance with details to be submitted to and agreed in writing by the local planning authority. Once provided, the cycle parking facilities shall thereafter be retained.
- 6) The development shall not be brought into use until:
 - i. the access roads to the service and customer parking area;
 - ii. the loading, off-loading and turning areas for all vehicles; and
 - iii. the parking spaces and access aisles (including surface markings);have been provided and all these facilities shall thereafter be so retained.
- 7) No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development. Discharge from the site must not exceed 4.2 litres/second and the design must be based upon the overall principles of the submitted flood risk assessment and drainage strategy but subject to further considerations and assessments relating to:

The long-term stability and functioning of the lined pond where high groundwater may be present. Adoption and maintenance of the adjacent site connections into your development (PA/2020/116) and the riparian watercourse on the northern boundary and utilising the above watercourse as the outfall for the development as opposed to the existing piped connection.

Full consideration should be given to the full utilisation/widening of the watercourse on the northern boundary opposed to large buried structures.

The drainage scheme shall demonstrate that surface water runoff generated up to and including the 1 in 100 year critical storm (including an allowance for climate change) will not exceed the runoff from the existing site. It shall also include details of how the resulting complete scheme is to be maintained for the lifetime of the development so that flood risk, both on and off the site, is not increased. SuDS must be considered. Reference should be made to North Lincolnshire Councils SuDS and Flood Risk Guidance Document. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, focusing on above ground solutions.

- 8) The drainage scheme shall be implemented in accordance with the approved submitted details required by condition 7 above and shall be completed prior to the occupation of any building within each phase or sub phase of the development on site and thereafter retained and maintained in accordance with the scheme for the life of the development, unless otherwise agreed in writing with the local planning authority.
- 9) The development shall not be brought into the use until the foul water drainage has been provided in full accordance with the details in the Flood Risk Assessment (Ref: A108700-1) and Appendices and shall thereafter be retained and maintained in accordance with this assessment and appendices.
- 10) If, during development, any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement, detailing how this contamination shall be dealt with, has been submitted to and approved by the local planning authority. The approved method statement shall be implemented in full prior to development commencing on the site.
- 11) The mitigation measures described in Table 11.1 of the Dust, Air Quality and Odour Assessment (Reference: A108700-1) dated 4 March 2021 shall be implemented in full for the duration of the proposed construction works.
- 12) A scheme for the provision of Electrical Vehicle Charging Points shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed to take account of good practice guidance as set out in the Institute of Air Quality Management Land Use Planning and Development Control contemporaneous electrical standards including:
 - Electrical Requirements of BS7671:2008
 - IET Code of Practice on Electrical Vehicle Charging Equipment Installation 2012 ISBN 978-1-84919-515-7

The approved scheme shall be installed in full and retained in perpetuity thereafter.

- 13) The Rating level of the development hereby permitted shall not exceed the typical background sound levels during the daytime (07:00 – 23:00)

and night-time (23:00 – 07:00) at the nearest noise sensitive properties with the exception of dwellings on Bedford Way and Mitre Gardens, where an exceedance of +4 dB is acceptable during the night-time (23:00 – 07:00), due to the context of the area. The measurements shall be undertaken by a suitably qualified acoustician and the assessment undertaken in accordance with BS4142:2014 + A1:2019.

- 14) Within three months of commencement of operation, a sound validation report shall be submitted to and agreed in writing by the local planning authority. The report shall demonstrate that condition 13 has been complied with.
- 15) HGV movements shall take place in accordance with the Transport Statement Report reference A108700-1 Rev C dated September 2020, paragraphs 4.4.3 to 4.4.6, unless otherwise agreed in writing by the local planning authority. An up-to-date register of all HGV movements to and from the site between the hours of 18:00 – 6:00 hours shall be maintained at all times by the developer/operator of the site and this information shall be made available at all reasonable times to the local planning authority.
- 16) Prior to the operation of the development hereby permitted, an acoustic barrier shall be erected on the site as detailed in technical report reference A108700 dated 2 September 2020. The detailed technical specification of the acoustic barrier or wall shall be submitted to and approved in writing by the local planning authority before the development is brought into operation. The specification shall include details of the location, size and design of the barrier, with predicted noise reduction over the frequency spectrum. The approved acoustic barrier or wall shall be installed prior to commencement of the use of this site and shall be maintained and retained thereafter.
- 17) The development shall not be brought into operation until an Odour Management Plan (OMP) has been submitted to and approved in writing by the local planning authority. As a minimum, the OMP shall include details of:
 - Identification of all odour sources, releases and impacts;
 - Control measures in place to control odour emissions including abatement where appropriate;
 - A monitoring plan to assess process controls and potential odorous releases;
 - Actions to be taken in the case of monitoring and identifying a potential odour issue; and
 - Complaints procedure should complaints be received in relation to odour.
- 18) No more than 625,000 tonnes of vegetable raw material shall be processed on site in any calendar year.
- 19) Prior to the occupation of the development, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. Thereafter, only the approved scheme shall be installed on the site and retained.

- 20) No development shall take place until a Species Protection Plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
- a) Details of measures to avoid harm to reptiles, amphibians, hedgehogs and nesting birds during vegetation clearance and construction works;
 - b) Details of road gullies and road drainage designed to minimise harm to amphibians;
 - c) Prescriptions for the eradication of any invasive non-native species, including Japanese Knotweed, that are encountered during the construction period.
- 21) Within 3 months of the commencement of development, the applicant or their successor in title shall submit a biodiversity management plan to the local planning authority for approval in writing. The plan shall include:
- a) Details of at least 5 bat boxes and 5 nest boxes to be installed in suitable locations;
 - b) Restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habits;
 - c) Prescriptions for the planting and aftercare of trees, shrubs and wildflowers of high biodiversity value;
 - d) Details of wetland habitat to be created as an element of sustainable drainage;
 - e) Details of 4 wildlife ponds to be created in the retained grassland on site;
 - f) Prescriptions for a bare ground strip of habitat along the southern boundary of the site;
 - g) Prescriptions for 2 butterfly banks to improve the resource for butterflies and create an additional topographical feature in the otherwise flat landscape;
 - h) Prescriptions for 3 amphibian hibernacula;
 - i) Proposed timings for the above works in relation to the completion of the building.
- 22) The Biodiversity Management Plan and Species Protection Plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the completion of the approved development, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the Biodiversity Management Plan and Species Protection Plan.
- 23) No development shall take place until proposals for landscaping have been submitted to and approved by the local planning authority. The proposals shall include indications of all existing trees and hedgerows on the site, and details of any to be retained, together with any measures for their protection during the course of development.

- 24) All the approved landscaping shall be carried out within twelve months of development being commenced, (unless a longer period is agreed in writing by the local planning authority). Any trees or plants which die, are removed or become seriously damaged or diseased within five years from the date of planting shall be replaced in the next planting season with others of similar size and species to those originally required to be planted, unless the local planning authority agrees in writing to any variation.

APPEARANCES

FOR THE APPELLANT:

Richard Kimblin KC of Counsel

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Witnesses:

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FOR THE LOCAL PLANNING AUTHORITY:

Tanya Coggon

Principal Planning Officer, North
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Millie Arden

Section 106 Officer, North
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DOCUMENTS SUBMITTED DURING THE INQUIRY

ID1: Appellant's Closing Submission