



Appeal Decision

Site visit made on 8 August 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 September 2023

Appeal Ref: APP/D0515/W/22/3313087

106 Wype Road, Eastrea PE7 2AZ

- 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 I Lockhart of GL Developments against the decision of Fenland District Council.
- The application Ref F/YR22/0118/F, dated 5 January 2022, was refused by notice dated 5 July 2022.
- The development proposed is described as “the erection 3 x dwellings (2-storey 5-bed) involving the formation of 3 x accesses”.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. My attention has been drawn to the extant permission¹ at the appeal site, for the erection of 3 dwellings. At the time of my visit, I observed that the dwellings have been substantially completed. I understand that the application has been re-submitted essentially for the same development without the requirement to include acoustic measures for Plot 6 which amongst others, included a 2.4m acoustic fence along the southern boundary.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) in September 2023, replacing the version published 20 July 2021. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party’s interests have been prejudiced by taking this approach.

Main Issue

4. The main issue is whether or not the location of the proposed development (Plot 6) is acceptable considering neighbouring land uses in respect of noise.

Reasons

5. The appeal site comprises a development of 3no. two-storey detached dwellings. The site lies adjacent to Eastrea Hill Farm which comprises a dwelling and a yard which includes a number of outbuildings used for commercial purposes.

¹ F/YR20/0902/F

6. The appeal scheme differs from the extant scheme in that it removed the balcony serving Plot 6 and its associated screen wall and instead proposes the single storey rear projection to have a flat roof with lantern. There is no dispute between the parties as to these design changes, and based on the evidence before me I consider this element of the proposed development to be acceptable.
7. The appellant argues that as no noise mitigation measures were imposed on new buildings granted on the adjacent commercial site² then the appeal proposal should also not be required to mitigate against noise. Citing the planning approval for residential development to the south of Eastrea Hill Farm³ stating that it does not include any requirement for noise mitigation. However, I consider the relationship of this site to the established commercial use materially differs from the appeal site before me and is therefore not directly comparable. In any event I have determined the appeal on its own merits.
8. I have carefully considered the representations of the appellant, however, limited information has been submitted to demonstrate that without mitigation the noise levels experienced by the future occupiers of Plot 6 would be acceptable.
9. The proposed dwelling for Plot 6 would have a shared boundary close to a number of commercial buildings. Limited evidence is before me as to the nature of the use of the workshop, although based on my observations it is likely that engineering processes, machinery and vehicles could be used early in the morning and in the evening. The noise associated with the established use is likely to be audible within the rear garden of Plot 6 and may well be audible inside the dwelling when windows are open, which would be likely to cause a nuisance to the future occupiers of the dwelling.
10. In order to provide a high standard of amenity for the future occupiers of the dwelling it is necessary for noise mitigation measures to be provided. Without such measures there is a high probability that the future occupants of the dwelling would complain that the established business is a source of noise. This would be highly likely to prejudice the operation of the existing business.
11. Mindful of relevant advice in the Framework and the expectation of a good standard of amenity for future occupiers, in the absence of evidence to justify that noise mitigation is not required it has not been adequately demonstrated that the living conditions of the future occupiers of Plot 6 would not be adversely affected by noise.
12. For the above reasons, I therefore cannot conclude that the proposed development is acceptable considering neighbouring land uses. I therefore find conflict with Policy LP16 of the Fenland Local Plan 2014 which, amongst other things, seeks to safeguard the amenities of future occupiers and that does not result in any unreasonable constraint or threaten the operation or viability of existing nearby or adjacent businesses or employment sites by introducing sensitive developments. In reaching this conclusion I have had regard to paragraphs 185 and 187 of the Framework which seeks to ensure a good standard of amenity for all future occupants of buildings and that new development is integrated effectively with existing businesses.

² F/YR20/0238/F and F/YR21/0872/F

³ F/YR19/0357/O and F/YR19/0719/RM

Other Matters

13. The principle of development and matters relating to character and appearance, highways and ecology are not disputed by the parties. Based on the evidence before me I have no reason to disagree.

Conclusion

14. Having considered all the policies drawn to my attention, the conflict I have identified with the above local plan policy leads me to conclude that there is conflict with the development plan as a whole. There are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. The appeal is therefore dismissed.

R Gee

INSPECTOR