



Appeal Decisions

Site visit made on 3 August 2023

by Timothy C King BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2023

APP/X3540/C/21/3287645 & APP/X3540/C/21/3287646

Land at Wangford Road/Reydon Lane, Reydon, Suffolk IP18 6SJ

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeals are made by Mr R Mobbs and Mrs E Mobbs respectively, against an enforcement notice issued by East Suffolk Council.
 - The enforcement notice was issued on 21 October 2021.
 - The breach of planning control as alleged in the notice is: Relating to planning permission ref DC/18/0335/FUL, the following conditions imposed have not been complied with:
 - Condition 2 – ‘The development hereby permitted shall not be carried out other than in complete accordance with Drawing Nos 17/019/1A and 17/019/2A, received on 18; in that the implement store/workshop has not been constructed in accordance with the approved plans, contrary to condition 2, and therefore the building is unauthorised’.
 - Condition 4 – ‘No retail sales shall be carried out from the site; in that retail sales are being conducted from the Site, contrary to condition 4’.
 - Condition 8 – ‘Within 3 months of commencement of development, precise details of a scheme of landscape works (which term shall include tree and shrub planting, grass, earthworks and other operations as appropriate) at a scale not less than 1:200 shall be submitted to and approved in writing by the local planning authority. The scheme shall include the thickening of the existing hedge and additional tree planting; in that the development commenced more than 3 months ago but a scheme of landscape works has not been submitted and approved by the Council, contrary to Condition 8’.
 - The requirements of the notice are:
 - 1) Convert the building so that it is built in full compliance with condition 2 of the planning permission;
 - 2) Cease all retail sales from the Site in full compliance with condition 4 of the planning permission; and
 - 3) Submit to the Council precise details of a scheme of landscape works (which term shall include tree and shrub planting, grass, earthworks and other operations as appropriate) at a scale not less than 1:200. The scheme shall include the thickening of the existing hedge and additional tree planting.
 - The period for compliance with the requirements is, for Step 1, 5 months after the date that this notice takes effect within 6 months after this notice takes effect, and for Steps 2 and 3, 3 months after the date that this Notice takes effect.
 - The appeals are proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Formal Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under

section 177(5) of the 1990 Act as amended for the development already carried out, namely the development of the land under planning permission ref DC/18/0335/FUL, without compliance with conditions 2, 4 and 8 thereto, on land at Wangford Road/Reydon Lane, Reydon, Suffolk IP18 6SJ referred to in the notice, subject to the conditions set out in the attached Schedule.

Background

2. In May 2018, under ref DC/18/0335/FUL, planning permission was granted for a new implement store/workshop and polytunnel, for use in connection with the production of flowers.
3. The above permission was subsequently implemented, but without compliance with the said conditions. In this connection an application was subsequently submitted seeking the removal of condition 4 which prohibited any retail sales from the site. Permission was refused in June 2021.
4. Given the circumstances the Council considered it expedient to issue the enforcement notice, served in October 2021.

Appeals A and B: Appeals on ground (a) – the deemed planning application (DPA)

5. An appeal under ground (a) is effectively an application for planning permission in respect of the breaches identified.

Main Issue

6. The reasons for issuing the enforcement notice suggest that the Council's objection is the considered adverse impact of both the building and its use on its contextual setting and the surrounding landscape, in general.
7. Accordingly, the main issue is the development's effect on the character and appearance of the surrounding area and the building itself, with particular regard to the site's location in an Area of Outstanding Natural Beauty (AONB), the proximity of a statutorily listed building and any impact resulting from the retail sales use.

Site location, and the development

8. The site comprises open land within the countryside. It is accessed off Reydon Lane which is bounded on both its sides by native hedgerows. Reydon Lane's nearby junction with Wangford Road (B1126) is to a significant distance southwards, and on the opposite side of this road, but set back, is Reydon Hall, a Grade II listed building, with its substantial land surrounds.
9. Hall Farm is situated off Reydon Lane, on its opposite side, just slightly northwards and the lane becomes increasingly more rural in character when continuing in this direction.
10. The site itself is relatively flat and has been developed by way of the detached workshop/store building which also incorporates a retail element at its rear. Immediately outside this section is an open-sided storage area, effectively a canopy, containing garden items such as pots and ornaments which is overlain by a continuation of the building's centrally ridged roof.

11. A roller shutter door faces towards the site entrance, and accommodates agricultural machinery and tractor vehicles. Glazed entrance doors to the retail section are positioned at the south east end of the building, and are of the black powder coated aluminium variety.
12. In terms of visual impact Policy WLP8.29 of the Waveney Local Plan (LP), adopted in 2019, requires that development demonstrates a high quality design which is of an appropriate scale, form and design and which, along with the external materials used, reflects local distinctiveness. Further, LP policy WLP8.35 seeks to ensure that new development integrates into the landscape.
13. The building, as erected, is seemingly to the dimensions approved under planning permission ref DC/18/0335/FUL, and it follows the same footprint, running the site's hedged north boundary, beyond which are open fields. I note that the site lies within the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB) but, given that the building's size and general form was previously considered acceptable by the Council, it is important to note the particular distinctions drawn by the authority.
14. The changes highlighted are the incorporation of matt black vertical steel cladding and the black powder coated glazed doors and windows rather than the originally proposed solid, but narrower, timber doors. A further issue raised is the open-sided section of building at its eastern end. Reasonably, although the cladding's colour may be different, neither of these changes represents a radical departure from the building as approved, given that its form and design remains largely consistent.
15. Moreover, although the Council clearly preferred the approved external weatherboarding, the dark brown stained softwood windows and the slate blue roof sheeting, this does not realistically mean that the appearance of the building as now exists is not characteristic of, nor at odds with, its rural setting. The building is set well into the site and I am of the view that it satisfactorily integrates into its contextual setting. Accordingly, it follows that the AONB has not been significantly affected by the development at issue. Further, the proposed landscaping and planting measures can only improve matters.
16. The landscape plan drawing (ref 21/267/03) shows that the land towards the western boundary of the site would benefit from tree planting, comprising a mix of beech, hazel and ash. Further down, towards the Reydon Lane/Wangford Road junction, an area of conifer planting is proposed to assist with screening. In addition, beyond the identified car park area, a line of eucalyptus and beech planting is proposed to mark the boundary with the crop growing area. Finally, the site's existing mature hedge along Wangford Road and Reydon Lane would be retained and enhanced with additional mixed species.
17. Accordingly, I find no material conflict with the aims and requirements of either LP policies WLP8.29 and WLP8.35, nor those of policies RNP 5 and RNP 10 of the adopted Reydon Neighbourhood Plan (NP) which requires for, where appropriate, detailed landscaping proposals as mitigation.
18. Given the presence of the listed building, Reydon Hall, I have a particular duty under Section 66(1) of the Planning (Listed Buildings and Conservation

Areas) Act 1990 to consider the desirability of preserving the listed building's setting, along with its features of special architectural and historic interest.

19. Obviously, there is significant desirability to preserve Reydon Hall's setting. Having assessed relevant factors, including the distance between what is only the modestly developed section of the appeal site and the land pertaining to Reydon Hall, but more so, taking into account the various physical separations between which includes Wangford Road, I have concluded that the setting of this listed building remains inviolate and any off-site effects such as vehicular movements to and from the appeal site would, given the existing degree of traffic along Wangford Road, be largely imperceptible. Accordingly, I find no conflict with LP policy WLP8.37 nor the advice within paragraph 199 of the National Planning Policy Framework (the Framework).

Retail sales

20. LP policy WLP1.1 seeks to maximise economic growth within the settlements of Lowestoft and Beccles. However, this must be balanced against the more contemporary advice within the Framework. Paragraph 84 thereto says that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, both through the conversion of existing buildings and also the erection of well-designed new buildings.
21. Paragraph 85 of the Framework goes on to say that sites to meet local business and community needs in rural areas may have to be located beyond existing settlements and, in such circumstances, it is important to ensure that development is sensitive to its surroundings and does not have an unacceptable impact on local roads. This approach is not inconsistent with LP policy WLP8.13 which says that new economic development outside of existing employment areas outside the settlement boundaries will be permitted where it would not have a significant adverse effect on surrounding land uses. Indeed, I consider that any harm that might be caused is outweighed by the benefit to the rural economy from this enterprise.
22. The use of this land for the growing of flowers falls within the definition of agriculture and hence does not constitute development under the Town and Country Planning act. The building and polytunnel hereby proposed are reasonably necessary for the purposes of agriculture.

Other Matters

23. At my site visit I noticed that external lighting has been erected on the building's south facing elevation. The Council has confirmed that this was installed after the enforcement notice was issued. However, none were shown on the plans approved in the 2018 planning permission, and this addition also therefore represents a breach of condition 2.
24. Photographs taken from a local objector show the spot lights illuminated, seemingly late in the day during the winter months. The appellants have commented that these are used only during business hours, and the lights would be extinguished after 5pm. They also indicated that they are agreeable to a condition requiring for such, along with the possibility of

dimming the degree of illumination by way of hood coverings or cowls being utilised.

25. Accordingly, in my consideration that certain mitigation measures are introduced in the interests of safeguarding amenities, I shall impose a condition requiring the hours of illumination, and also that details shall be submitted regarding possible light coverings.
26. I note that representations from interested parties indicate an understanding that the external generator which is situated in the limited space between the buildings elevation facing its northern boundary is to be re-sited within the building. This, though, is not the case. Indeed, it would be inadvisable for safety reasons. However, at my site visit I noted that the level of noise emission is low, and I am not of the view that this is an issue of material significance.

Conclusion and Conditions

27. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.
28. As regards conditions, in order to safeguard the area's character I am imposing a condition restricting the hours of operation. Although the Council suggested that there should be no Sunday or Bank Holiday opening this is against the norm for commercial concerns such as this, whether or not the site lies within a rural location. Sundays and Bank Holidays are popular days for customers. Further, this is not a large commercial concern and precluding such opening would amount to undue restraint of trade.
29. Visual character will also be safeguarded by a condition requiring for the laying out of an identified permeably surfaced car park area, one prohibiting the external storage of goods and produce, and another stipulating that the polytunnel shall be used only for the growing of flowers.
30. A condition will also be imposed requiring the implementation of the approved landscaping scheme to both enhance the site's appearance and add to the site's vegetative screening. In this connection a condition is also imposed to stipulate the replacement of any hedgerow, should this be required.
31. No condition regarding the use of external materials and finishes is necessary as, in this regard, the development has already been completed. However, in addition to the condition in respect of the external lighting, a condition is also imposed regarding completion of the development in accordance with the drawings hereby approved in terms of landscaping and the provision of a properly surfaced and defined car park area.

Timothy C King

INSPECTOR

Schedule of Conditions

- 1) The development hereby approved shall be completed in full accordance with drawing nos.21/267/01; 21/267/02 and 21/267/03.
- 2) The polytunnel shall only be used for purposes associated with the growing of flowers, with the main building being used for the retail sale of this produce along with the related sale of items and products associated with the flower production use.
- 3) The hours of operation shall be restricted to the hours of 09.00 to 17.00, Monday to Saturday, and within the hours of 10.00 to 16.00 on Sundays and Bank Holidays, and at no other times.
- 4) There shall be no storage of produce and goods outside of the main building and its open sided canopy.
- 5) No part of the existing hedgerow on the site's boundaries shall be uprooted, felled, wilfully damaged or in any way destroyed or removed. Any hedgerow removed, dying, being seriously damaged or diseased within five years of the development's completion shall be replaced within the first planting season thereafter and shall be retained and maintained, accordingly.
- 6) The approved landscaping scheme, as illustrated on drawing no. 21/267/03, hereby approved, shall be carried out in the first planting and seeding seasons following the date of this permission and any trees or plants which die, are removed or become seriously damaged or diseased within a period of 5 years therefrom shall be replaced in the next planting season with others of similar size and species.
- 7) The parking and manoeuvring of vehicles shall be restricted to the area shown on drawing nos 21/267/01 and 21/267/03, hereby approved, and this area shall be surfaced and made available within 6 months of the date of this permission. Thereafter, it shall be retained and used for no other purpose.
- 8) The external lighting shall only be illuminated during the hours of 09.00 to 17.00, Monday to Saturday, and within the hours of 10.00 to 16.00 on Sundays and Bank Holidays, and at no other times, and within three months of the date of this decision details of suitable light hoods or cowls shall be submitted to the local planning authority for subsequent approval and implementation, accordingly.