



Appeal Decision

Site visit made on 11 September 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 31 October 2023

Appeal Ref: APP/R1010/W/23/3320946

**Willow Tree Family Farm, Langwith Road, Shirebrook, Mansfield,
Nottinghamshire NG20 8TF**

- 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 A Hind of Willow Tree Family Farm against the decision of Bolsover District Council.
 - The application Ref 22/00333/FUL, dated 30 June 2022, was refused by notice dated 21 December 2022.
 - The development proposed is the erection of 2 marquees and toilets, re-surfacing of existing access lane in association with mixed use of the site and an extension of the family farm for the keeping of animals.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 marquees and toilets, re-surfacing of existing access lane in association with mixed use of the site and an extension of the family farm for the keeping of animals at Willow Tree Family Farm, Langwith Road, Shirebrook, Mansfield, Nottinghamshire NG20 8TF in accordance with the terms of the application, Ref 22/00333/FUL, dated 30 June 2022, and the plans numbered Plan A and 715 011 Rec C, subject to the following conditions:
 - 1) The use of the former playing pitches as an extension to the town farm and the use of the marquees for functions which do not directly form part of the use of the site as a town farm must be discontinued and the land restored to its former condition on or before 31st December 2025 in accordance with a scheme of work submitted at least two months before the expiry of the permission and approved in writing by the Local Planning Authority.
 - 2) The use of the former playing pitches must be for the keeping of animals and occasional parking of vehicles in connection with the use of the site and there must be no permanent structures, buildings or fences erected on the site without the prior grant of planning permission.
 - 3) Within 28 days of the date of this decision the noise management plan set out on page 19 of the Noise Impact Assessment (Nova Acoustics 20.10.2022) submitted to the Local Planning Authority on 20th October 2022 must be implemented on site in full and must remain in place for the length of this permission, unless otherwise agreed in writing by the Local Planning Authority.

Preliminary Matters

2. The development proposed has already been carried out and I have determined the appeal on this basis.

3. Sport England objected to the planning application which is the subject of this appeal. In such circumstances local planning authorities are required to consult with the Secretary of State¹. However, as an Inspector appointed by the Secretary of State to determine this appeal the National Planning Casework Unit have confirmed that the appeal will not be recovered under section 77 of the Town and Country Planning Act 1990 (as amended).

Main Issues

4. The main issues in this appeal are:
 - whether the location of the development complies with the development plan, with particular regard to the provision of playing fields; and,
 - the effect of noise and disturbance from the development on the living conditions of nearby residents.

Reasons

Location of development

5. The marquees and toilets are located adjacent to the existing farm park and the access lane is located within the farm park. As these aspects of the development are located within the development envelope for the settlement and support the local economy by providing accessible employment opportunities suitable for local people, they comply with the spatial strategy of the Local Plan for Bolsover District ('Local Plan') and are acceptable in principle.
6. The playing pitches are located outside the development envelope and within the countryside where development is strictly controlled. Development though that is necessary for the efficient or viable operation of agriculture and agricultural diversification, such as the keeping of animals and occasional parking, is supported in the countryside by policy SS9 of the Local Plan. As the use of the playing pitches for the keeping of animals and parking associated with the farm park and marquees helps to support the farm, the development complies with this policy.
7. Playing pitches within the District are protected from development by policy ITCR7 of the Local Plan. This protection extends to disused playing pitches such as those that form a large majority of the appeal site, which in this case have not been used for sports since at least August 2017. The National Planning Policy Framework is an important material consideration. It advises that existing sports land, including playing fields, should not be built on unless they have been shown to be surplus to requirements, or the land would be replaced by equivalent or better provision.
8. Sport England are a statutory consultee and oppose the planning application. This is because the locality is considered to be a strong area for football overall with high levels of demand and because the Bolsover Playing Pitch Strategy Assessment Report (2017) found no surplus of playing field provision. With no replacement of the playing pitches proposed the development is not supported by Sport England's Playing Field Policy.
9. In this case though, temporary permission for use of this land is sought and would not involve the erection of any permanent structures. As a result, should

¹ The Town and Country Planning (Consultation) (England) Direction 2021

the appeal be allowed, the land would be protected in the event that the ongoing review of the Local Plan and associated playing field strategy, action plan and assessment identify that the land needs to continue to be reserved for sports use in the future.

10. Accordingly, whilst the development does not comply with policy ITCR7 of the Local Plan in that it has resulted in the loss of playing fields, the loss would be temporary and there has not been, and continues not to be at the present time, a demand for the pitches to be brought back into use. As a consequence, the harm that would be caused to playing field provision should the appeal be allowed is limited.

Living conditions

11. The appellant holds a licence from the Council which allows the marquee, side marquee and outdoor area to be used for events such as weddings and the sale of alcohol in relation to such events. The licence allows events to operate between 10am and 11pm on any day of the week, with the venue closing no later than midnight. Whilst the playing fields serve to separate the marquees from the nearest houses which are to the west and south, approximately 60m and 125m away respectively, the potential for noise from the events to cause disturbance exists.
12. As the venue has been operating for some time it has been possible to assess the noise it creates. A noise impact assessment carried out in relation to the development has identified a need for a suitable noise management plan to avoid justified complaints. Given that during the 2 year period the venue has been in use approximately 150 events have taken place and only 2 complaints have occurred, complaint levels are very low. In my judgement therefore, the implementation of an appropriate noise management plan should give local residents reassurance that they will be protected from noise and disturbance. This matter could be secured by an appropriately worded condition. In the event that the plan is not adhered to, and noise disturbs neighbours, the Council would have a variety of options to remedy matters through its planning, noise nuisance and licensing powers.
13. Taking all these matters into account, I therefore conclude that noise from the development does not have a material adverse effect on the living conditions of nearby residents. As a result, it complies with policy SC11 of the Local Plan which seeks to prevent harm in this regard.

Other Matters

14. Access to and from Willow Tree Family Farm and the appeal site is via the grounds of the former education centre. Its owner advises that the farm has no right to use parking facilities within the site of the former centre and that the proposed parking facilities are inadequate. Access and use of parking on land that is owned by another party though is a matter of civil law and is not relevant to my consideration of the planning merits of the appeal. As a result, this consideration has not altered my assessment of the appeal.
15. In terms of the parking facilities that have been provided, the parking available on the playing fields, in conjunction with the agreement with a neighbouring sports social club to provide additional spaces, is sufficient to provide adequate off road parking.

Overall Conclusions: The Planning Balance

16. The change of use of the playing fields is contrary to policy ITCR7 of the Local Plan. However, I have found that the harm caused would be limited as the temporary permission sought means that should it be found as part of the ongoing review that the fields still need to be retained as playing pitches they could be. Furthermore, the appeal scheme supports the development of Willow Tree Family Farm which is a valued local charity. This benefit is significant and in conjunction with the temporary nature of the permission is sufficient to outweigh the conflict that exists with the Local Plan. Material considerations therefore indicate that the scheme should be determined other than in accordance with the development plan. Accordingly, I conclude that the appeal should be allowed.
17. In the interests of protecting the reserve of playing fields, and to allow for the effect of the development on the living conditions of nearby residents and highway safety, the permission needs to be time limited. To prevent the permanent loss of playing fields no built development of permanence should be erected. To protect the living conditions of local residents with regard to noise and disturbance, the noise management plan contained within the submitted Noise Impact Assessment needs to be implemented. I have required all these matters by condition.

Ian Radcliffe

Inspector