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# Appeal Decision

Site visit made on 16 January 2024

**by A Price BSc MA MRTPI**

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

**Decision date: 6<sup>th</sup> March 2024**

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**Appeal Ref: APP/C1570/W/23/3322137**

**Maidens Barn, Green Street, High Easter CM3 1HU**

- 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 Forest Contracts Ltd against the decision of Uttlesford District Council.
  - The application Ref UTT/21/0313/FUL, dated 29 January 2021, was refused by notice dated 27 January 2023.
  - The development proposed is described on the application form as 'retention and completion of two side extensions to former barn and installation of a bio-mass boiler for disposal of wood.'
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by the appellant against Uttlesford District Council. This application is the subject of a separate decision.

## Preliminary Matters

3. Notwithstanding the description of development set out above, which is taken from the application form, the development is more accurately and concisely described as the erection of two side extensions to former barn and installation of a bio-mass boiler for disposal of wood. The Council determined the application on that basis and so shall I.
4. There is a dispute regarding the current use of the appeal building. However, the proposal before me relates solely to the erection of extensions and the installation of a biomass boiler. My decision will be based only on these aspects. This does not regularise the use of the building. Any alleged unauthorised works, including in relation to use or operations, would be a matter for the Council.
5. The Council does not object to the design of the development, and I have no reason to disagree with those findings.
6. Since the appeal was lodged, a revised version of the National Planning Policy Framework (the Framework) was published (December 2023). This does not materially change the planning policy context in respect of the main issues.

## **Main Issue**

7. The main issue is the effect of the development on the living conditions of nearby residents, with particular regard to noise and pollution.

## **Reasons**

8. The appeal site comprises a complex of buildings positioned adjacent to Green Street. Two single storey extensions have recently been constructed. One extension forms the occupying business's office and the other accommodates plant and a compressor associated with the business's operations. In addition, a biomass boiler has been installed, including associated storage silo, burner and extractor. This is enclosed behind a timber-clad screen. The biomass boiler is used to incinerate waste wood produced at the site. This in turn generates heat for the building. Issues of noise and odour are relevant to these elements of the site, irrespective of arguments over the site's authorised use.
9. An acoustic impact assessment carried out in July 2021<sup>1</sup> was submitted in support of the scheme. This assesses the impact of the biomass burner, shredder, extract fan and air compressors. The report concludes that sounds from some plant and activities currently exceed appropriate criteria during the day (causing 'significant adverse impact'). However, it is set out that this could be mitigated by a number of physical measures. It also concludes that at night the level and character of sound at nearby Sorders Farm is 'approximately suitable'. Nevertheless, I have no information before me to demonstrate that the proposed mitigation measures, which include an acoustic barrier, attenuators, replacement door and flue attenuator have since been installed, or to demonstrate that noise levels are now acceptable with those features in place.
10. Whilst I accept that an Environmental Permit exists for the use of the boiler and plant at the site, this does not appear to deal with matters of noise. Moreover, I have concerns over a statement within the acoustic impact assessment which sets out that the biomass boiler could not be turned off during the acoustic survey, meaning that baseline/background noise levels have had to be estimated. In addition, I note that the survey took place between 1530 and 1800 hours, and not at all during the night. Concerns have also been raised by nearby residents in relation to noise levels during the day and night. Accordingly, the evidence before me fails to satisfactorily demonstrate that noise levels associated with the plant proposed under this appeal are acceptable for both daytime and nighttime conditions.
11. In respect of odour, concerns have also been raised by a number of nearby residents. I have seen a copy of an odour impact assessment carried out by Air Pollution Services, dated November 2021, submitted by a nearby resident. This report concludes that there are moderate adverse odour effects within several hundred metres of the appeal site. The Council's environmental health officers have raised concerns in respect of the impact assessment, setting out that they require further information before being able to reach a decision on the proposal or to be satisfied that conditions could be suitably imposed in the interests of neighbouring living conditions. There is no evidence before me to demonstrate that those discussions have been concluded.

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<sup>1</sup> Acoustic Control Engineers and Consultants, reference B5407 2021-07-19 R

12. I acknowledge that the Environmental Permit refers to emission limits and monitoring at the site. However, this does not explicitly make reference to the effect of any odour emissions on the living conditions of nearby residents. Accordingly, the evidence before me fails to satisfactorily demonstrate that odour emissions associated with the plant proposed under this appeal are to acceptable levels.
13. I accept that the use of the biomass boiler enables the company to be self-sufficient and sustainable in respect of heating the site's buildings and reducing the need for waste vehicles to visit the site more frequently. I note the benefits of the company as a source of local employment, and I accept that the Council did not impose conditions on a previous permission. Nevertheless, these matters do not outweigh or overcome the harm that I have identified, and I am assessing the appeal scheme based on the plans and details before me.
14. Overall, I have insufficient information before me to conclude that the development is acceptable in respect of the effect on the living conditions of the occupiers of neighbouring properties, contrary to the relevant provisions of Policies GEN4, ENV10 and ENV13 of the Uttlesford Local Plan (2005). These policies, in summary and when taken as a whole, seek to ensure that living conditions are protected, including in respect of noise and air pollution.

### **Other Matters**

15. That the landowner or guests of the adjoining wedding venue have not raised complaints in respect of noise or odour does not provide justification for the scheme. The lack of objection is essentially neutral in my determination of the appeal, and it has not led me to an alternative conclusion on the main issue.

### **Conclusion**

16. For the reasons given above, having regard to all other matters raised, I conclude that the appeal should be dismissed.

*A Price*

INSPECTOR