



Appeal Decision

Site visit made on 14 May 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal Ref: APP/E3335/W/23/3330118

Higher Clapton Farm, Higher Clapton Lane, Maperton, Wincanton, Somerset BA9 8EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr T Archer against the decision of Somerset Council.
 - The application Ref is 22/03588/COU.
 - The development proposed is change of use of an agricultural building to commercial use (Use Class B2).
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Decision

1. The appeal is dismissed.

Main Issues

1. The main issues in this appeal are:
 - the effect of the appeal proposal on the living conditions of occupiers of neighbouring residential properties with particular regard to noise;
 - the effect of the appeal proposal on highway safety;
 - the effect of the appeal proposal on protected species; and
 - whether the appeal site is an appropriate location for the proposed development having regard to the development plan.

Reasons

Noise

2. The appeal proposal relates to the use of the building by a metal fabrication company. I understand that metal fabrication involves manufacturing items from metal by cutting, bending and assembling. It usually involves a number of machines and processes, some of which can be noisy.
3. The appellant has provided details of the proposed occupier. I am advised that in the period between 2001 and 2018, when they occupied a site elsewhere, no complaints associated with noise were made. I understand that they now occupy a site in Wincanton and that a large proportion of the work the metal fabrication company carry out in respect of production and fabrication occurs off site. For this reason, the appellant says, the amount of metal fabrication which would take place at the appeal site would be limited.
4. Notwithstanding this, the Planning Practice Guidance states that conditions limiting the benefit of the permission to a company are inappropriate and

accordingly any permission granted would not be restricted to the proposed occupier. Therefore, I must consider whether the use of the building by a metal fabrication company would be appropriate rather than a specific end user.

5. Agricultural activities can generate noise. I understand that there is already noise generated on site during the day and at night, by vehicles bringing produce to the grain store, the operation of the grain dryer in the post-harvest period and the use of internal cooler fans to maintain the correct storage conditions. There is a discrepancy in the distances quotes by parties in relation to how far away the neighbouring properties are from the appeal site. However it was clear to me at my site visit that the occupiers of the nearest residential properties, including 'Elliscombe' would be used to a certain level of noise and disturbance from the agricultural activities operating on site.
6. That said, at the time of my visit, there was no noise emanating from the buildings and no vehicles were present. I accept that my site visit only represents a snapshot in time but, in the absence of evidence to the contrary such as a noise assessment, it indicates to me that the generation of noise at the site is presently intermittent.
7. Not all the work carried out by a metal fabrication business would be noisy. However, some of the processes would be noisy and the metal fabrication business would be likely to operate every day (except Sundays and Bank or Public Holidays) throughout the year. It would have the potential to generate a greater number of noise sources because of the increased activity and additional people using the site. This would include the noise associated with staff and delivery drivers arriving and departing at various times of the day in addition to the noise from industrial machinery on site. This would be in addition to a continuation of agricultural activity during the day and at night in relation to the adjacent agricultural buildings.
8. In the absence a noise assessment or other substantive evidence to the contrary, I find that the appeal proposal would result in noise and disturbance beyond that associated with agricultural activity and in excess of what the nearby residents could reasonably expect, living in a rural location. The proposal would therefore be harmful to the living conditions of the occupants of the neighbouring properties due to their close proximity to the site.
9. I have considered whether these effects could be mitigated to an acceptable level through the use of conditions, as set out in Policy EQ7 of the South Somerset Local Plan 2006-2028 adopted March 2015 (LP) and Paragraph 55 of the National Planning Policy Framework (the Framework). The Council have suggested conditions to ensure that all industrial processes take place within the building and that a scheme be agreed to control any noise arising from the use of the equipment. However, in the absence of a noise assessment or specific details of the construction of the building, I cannot be certain what effect either of these conditions would have on the level of noise experienced by the nearest neighbours and I am not satisfied that it would be reasonable or achievable to control noise arising from the equipment.
10. The appellant has suggested that the hours of operation could be restricted to daytime hours. However, this would not protect the living conditions of neighbours from noisy operations being carried out during that time. Whilst there are separate regulatory powers for statutory noise nuisance, the Framework requires that new development is prevented from contributing to

unacceptable levels of noise pollution (Paragraph 180) and that impacts arising from noise are mitigated and reduced to a minimum (Paragraph 191). Taken together, I am not satisfied that the impact on the living conditions of the nearest neighbours could be mitigated to an acceptable level through the use of conditions.

11. Notwithstanding that the Council's Environmental Health Specialist chose to make no comments on the proposal, I conclude that the proposal would be contrary Policies EQ2 and EQ7 of the LP which seek to protect the residential amenity of neighbouring properties and only permit development which results in harm to amenity where the adverse effects can be adequately mitigated.

Highway Safety

12. The appeal site is located in the open countryside, where access is provided by rural lanes. There is no dispute between the parties that these lanes are already used by large agricultural and other vehicles to access the appeal site.
13. A Transport Statement (TS)¹ was commissioned by the proposed occupier of the appeal building. The traffic generation figures associated with the appeal proposal have been based on existing traffic movements of that business. Notwithstanding my comments in Paragraph 4 above, this seems to me to be a reasonable approach to take in establishing the likely traffic movements associated with a metal fabricator at the appeal site.
14. Paragraph 5.2 of the TS states that the appeal proposal would generate up to ten two-way movements for staff and one two-way movement for outgoing deliveries per day. In addition, there would be up to three deliveries, amounting to six two-way movements, per week and occasional customer visits. Most of these journeys would be by private car but would also include a small flatbed truck or van and a commercial delivery vehicle up to fifteen tonnes. The Council and interested parties do not dispute these figures and I see no reason to either.
15. There are traffic movements associated with the existing agricultural uses on site. Some of those vehicle movements may be offset by a reduction in the number of agricultural vehicles which are currently attracted to the appeal building. The appellants submissions² state that 30-40 grain lorries bring all the arable produce from the holding to the site and that these are held in the adjoining grain store. This does not indicate to me that a change of use of the appeal building would reduce the number of grain lorries. It goes on to state that the recent switch to liquid fertiliser has led to the need to re-purpose the appeal building but does not provide any detail as to how this has affected traffic generation associated with the building. The appellant also says that the yards are visited daily, at least, in some farming capacity and given that the appeal relates to just one of the buildings on site, I see no reason why this would not continue.
16. On this basis, I am not persuaded by the TS conclusion that the appeal proposal would not result in any new vehicle trips on the local highway network. From the evidence before me, I conclude that the use of the appeal building for a metal fabrication business would generate additional vehicle

¹ Prepared by The Transportation Consultancy dated November 2022

² Titled 'Higher Clapton Farm Agricultural Operations'

movements and therefore result in an increase in vehicles using the surrounding highway network.

17. I accept that the agricultural use of the site attracts large agricultural vehicles and that these already use the surrounding highway network. The appellant refers to this as the 'fall back' position. I have also been provided with a photograph as evidence of the size and type of vehicles which currently visit the site. Whilst I accept that the vehicle shown in the photograph is larger than the fifteen-ton commercial delivery vehicle which would visit the proposed metal fabrication business, I have no evidence regarding the frequency that such vehicles visit the site nor that they would be reduced if the appeal were to succeed. In fact, the appellant's submissions indicate that existing agricultural operations will continue and therefore, any traffic generated by the appeal proposal will be in addition to that already generated, not instead of. I have therefore given this very limited weight in my decision.
18. Other than as provided at Figure 2.1 of the TS, I have not been provided with a plan which identifies all the roads referred to by the Council and the appellant. For the avoidance of doubt therefore, I shall refer to Clapton Lane as being the highway running south eastwards from the appeal site to a three-way junction from which Clapton Lane is then aligned north-east to south-west. To the south west, Clapton Lane meets an unnamed road (to the south of the A303) with residential properties either side. To the north east, Clapton Lane meets Gibbet Road which is aligned north-west to south-east which then joins with the A371 to the north. Clapton Lane has a road sign at either end indicating that it is unsuitable for heavy goods vehicles.
19. No measurements of available visibility at any of these junctions have been provided by the Council or the appellant. I saw during my site visit that visibility is poor particularly in a westerly direction at the junction where Clapton Lane meets the unnamed road to the south of the A303 and in an easterly direction where Gibbet Road meets the A371. I also saw that Clapton Lane is a narrow single track lane without central white line delineation markings. It has high hedges either side and no formal passing places within the limits of the adopted highway. It is subject to the national speed limit but from what I observed, likely vehicle speeds are between 20-30mph. Traffic speeds are likely to be lower at the three-way junction of Clapton Lane to the south east of the appeal site due to its geometry, gradient and alignment.
20. From all that I have seen and read, I conclude that the roads and junctions surrounding the appeal site are substandard in terms of their width, alignment and visibility at junctions. I have also concluded that the appeal proposal would increase the number of vehicles using the roads and junctions in the local highway network and together I find that this would be harmful to highway safety.
21. Accordingly, the proposal would conflict with Policy TA5 of the LP which seeks to ensure that the expected nature and volume of traffic would not compromise the safety and/or function of the local road network.

Protected Species

22. A Preliminary Bat Roost and Nesting Bird Assessment ('the Assessment') was submitted as part of the appeal³. Whilst the Assessment was not submitted as part of the planning application, the Council have had the opportunity to consider its findings and provide comments but have chosen not to do so. Interested parties have indicated that they have observed bats and other protected species during the evening in the vicinity of the buildings on site. However, the Assessment submitted by the appellant indicates that the building does not provide a suitable habitat for bats and that no bird nests were present.
23. I have taken into account that the appeal building is already in use for agricultural purposes, that noise is emitted from the grain dryer close by and the appeal proposal does not include any alterations to the building. I have also taken into account that the methodology used in the Assessment is consistent with the guidelines provided by the Bat Conservation Trust. In the absence of substantive evidence to the contrary, I find that the appeal proposal would not result in harm to protected species. Accordingly, no conflict with Policy EQ4 of the LP which seeks to avoid harm to protected species, would arise.

Location

24. The supporting text to Policy EP5 of the LP states that the Council is keen to support development that delivers diverse and sustainable farming enterprises through, amongst other things, the leasing of land and buildings to other non-agricultural businesses. However, the Policy requires that this is of a scale, character and type which is compatible with its location and forms part of a farm diversification scheme which contributes towards making the holding viable.
25. The appellant has provided a summary of the agricultural operations that operate on and around Higher Clapton Farm. However, the information before me does not amount to a comprehensive farm diversification plan indicating how the appeal proposal would assist in retaining the viability of the farm and how it links to the short or long term business plans for the farm. The appellant states that the rental income for the building would equate to less than 5% of the total farm income from the cereal operations of the enterprise alone. This does not suggest to me that the appeal proposal would be making anything more than a very minor contribution to the overall profitability of the farm holding, or that the agricultural business is reliant on the appeal proposal to make the holding viable.
26. Even if I was satisfied that the proposal amounted to a farm diversification scheme which would contribute towards making the holding viable, given my findings above in respect of noise and highway safety, the proposal would not be compatible with its location. Accordingly, a conflict with Policy EP5 of the LP would occur, which permits farm diversification proposals subject to satisfying a number of criteria, which the appeal proposal does not.

Planning Balance

27. Whilst I have found that no harm would arise to protected species, the appeal proposal would result in harm to the living conditions of neighbouring

³ Carried out by Abbas Ecology dated September 2023

occupiers, highway safety and would conflict with the development plan in terms of its location. Paragraphs 88 and 89 of the Framework support a prosperous local economy but it also requires that development is sensitive to its surroundings and would not have an unacceptable impact on local roads. This does not indicate that the appeal should be determined otherwise than in accordance with the development plan, to which Policy SD1 of the LP refers.

Other Matters

28. The appellant has referred to Policy EP4 of the LP relating to the expansion of existing businesses in the countryside. The supporting text to the Policy refers to circumstances where rural businesses have an established base and relocation is not a desirable option. From the information before me, this would not apply to the proposal before me. Even if I found the Policy was relevant to this appeal, it requires that highway safety is not compromised, and as I have found that it would be, conflict with the Policy would arise.
29. Interested parties have raised other matters including, but not limited to, flooding, the amenity of walkers using the public footpath and harm to flora and fauna along the approach roads but given that I have identified harm in respect of the main issues, these are not matters on which my decision turns.

Conclusion

30. I have found that the proposal would conflict with the development plan as a whole and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

Alison Fish

INSPECTOR