

Appeal Decision

Site visit made on 25 September 2024

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2024

Appeal Ref: APP/C1435/W/24/3339882

**Squires Farm Industrial Estate, Palehouse Common, Framfield,
East Sussex TN22 5RB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Robin Marten of Squires Developments Ltd against the decision of Wealden District Council.
 - The application Ref is WD/2023/2671/FA.
 - The application sought planning permission for the use of the site for the processing of concrete (B2 Use Class) including storage on site of associated machinery, retention of associated structures including portacabin (site office with W.C), silo and sheds and proposed concrete wash out pit without complying with a condition attached to planning permission Ref WD/2022/2633/FR, dated 13 October 2023.
 - The condition in dispute is No 4 which states that: *The premises shall not be open and no machinery shall operate other than between the following hours:*
 - a) 08.00-18.00 Mondays-Fridays
 - b) 08.00-13.00 Saturdays*This shall include deliveries and staff arrival. No plant or machinery shall operate on Sundays and Public or Bank Holidays*
 - The reason given for the condition is: *To protect the residential amenities in the locality, having regard to Spatial Planning Objectives SPO2 and SPO13 and Policy SCS14 of the Wealden Core Strategy Local Plan 2013, Saved Policy EN27 of the Wealden Local Plan 1998, coupled with the requirements of paragraph 130 of the National Planning Policy Framework 2023.*
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Decision

1. The appeal is allowed and planning permission is granted for the use of the site for the processing of concrete (B2 Use Class) including storage on site of associated machinery, retention of associated structures including portacabin (site office with W.C), silo and sheds and proposed concrete wash out pit at Squires Farm Industrial Estate, Palehouse Common, Framfield, East Sussex TN22 5RB in accordance with the application Ref: WD/2023/2671/FA without compliance with condition number 4 previously imposed on planning permission Ref WD/2022/2633/FR, dated 13 October 2023, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The condition in dispute relates to the site's working hours. The appeal seeks to allow the operation to start an hour earlier during weekdays and Saturdays and to continue longer into Saturday afternoons.
3. There is no dispute between the parties about the other conditions imposed on planning permission WD/2022/2633/FR. However, I have no evidence that the details required by those relating to lighting and drainage have been provided to the Council within the time limits set out in conditions 2 and 3. Neither do I have confirmation that the ballast storage bays have been constructed as required by condition 5. I return to these matters later.

Main Issues

4. The main issues are whether the restriction on working hours is reasonable and necessary:
 - a) to protect the living conditions of adjoining occupants:
 - b) to preserve the setting of Tewitts Farm, a Grade II listed building.

Reasons

Living conditions

5. The appeal site is an open yard on the western edge of Squires Farm Industrial Estate. This is a well-established industrial estate containing a mix of some 18 commercial activities which make use of buildings and open yards. These include a waste recycling transfer station and a wood shaving manufacturer. Allied Waste Management stores empty skips in an open area alongside the western boundary of the estate beyond the appeal site. The planning permission allows them to operate from 07.00-17.00 on weekdays and 07.00-12.00 on Saturdays. My understanding is that some businesses within the estate do not have restrictions on their operating hours.
6. The application for the proposed use on the appeal site was supported by a noise assessment based on BS4142, prepared by an acoustics expert. On the basis of this evidence, officers recommended restricting operational hours to 07.00-18.00 on weekdays, Mondays-Fridays and 07.00-16.00 on Saturday, with no operations permitted on Sundays, Public and Bank Holidays. Staff arrivals would be permitted 30 minutes prior to these specified times. However, to address concerns voiced by nearby residents, Members imposed a more restrictive condition of an 08.00 start on weekday mornings and an earlier finish time of 13.00 on Saturdays.
7. The appellant is seeking a variation that would allow him to operate during the hours originally considered acceptable by the officers. There has been no material change in the evidence since the submission of the original Noise Assessment. Its conclusions, which took account of the separation distances from neighbouring residential uses, concluded that the site could operate from 07.00 without causing unacceptable noise disturbance. The officers, including the Environmental Health Officer with their responsibilities for noise, therefore raised no objection to the proposed variation in operational hours. There was no reason for them to depart from their original recommendation.

8. Neighbours have continued to raise objections to these changes based on concerns that they will be unduly disturbed in the early hours of the morning and in leisure time at weekends. However, the number of staff working at the site is small and from the data presented it is evident that loud noises emanating from the operation are intermittent. The proposed change should also be considered in the context of the remainder of the industrial estate which already generates a degree of noise and disturbance. Some of the existing businesses are not constrained by conditions restricting their operating hours and already contribute to the noise environment before 08.00 on weekdays and after 13.00 on Saturdays. There was no evidence to demonstrate that any additional noise generated by permitting the appeal site to operate earlier and later as proposed would significantly increase noise levels in a manner that would be discernible at the nearest sensitive receptors.
9. If the operation was intensified in the future, there would be potential for additional noise disturbance. However, given the site's constrained size, in my view any future intensification is likely to be limited. There is simply no space for a significant number of additional loaders, lorries or storage of additional materials. The possibility of more activity therefore is not a justification for refusing the current minor amendment to the permitted operating hours.
10. The business is part of the supply chain providing concrete for the construction industry, which commonly starts on-site activities at 08.00 or earlier. There is therefore a reasonable economic justification for requesting an operational start of 07.00. A small number of staff may arrive before then but provided they do not commence the use of machinery before 07.00, I see no reason why that should result in unacceptable disturbance to occupants of properties that are more than 150m away.
11. I therefore conclude that the proposed operating hours would not result in unacceptable additional noise or disturbance for the occupants of nearby dwellings. The amendment to condition 4 would be reasonable and would accord with saved Policy EN27 of the Wealden Local Plan 1998 (Local Plan), which seeks to protect the amenity of adjoining developments from unacceptable noise. There is no conflict with Policy WCS14 of the Wealden Core Strategy Local Plan 2013 (Core Strategy), which sets out the presumption in favour of sustainable development. Spatial Objective SPO13 of the Core Strategy is primarily concerned with creation of new, high quality living environments and is therefore not directly relevant to assessment of a commercial operation.

Heritage

12. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving a listed building and its setting or any features of special architectural interest which it possesses.
13. The closest residential dwelling to the appeal site is Tewitts Farm, a Grade II listed building. Its significance derives primarily from its age as a late 17th century two storey dwelling with architectural features that reflect that period. It also has historic value and significance as a farmhouse set in open countryside. Its setting includes the surrounding fields. However, there are no

visual or functional links between this building and the appeal site. Its rural setting is now experienced in the context of the long-standing commercial activities which take place on the Squires Farm Industrial Estate. These were already occurring with Tewitts Farm was listed in 1982 and have grown and expanded since.

14. Consequently, any minor increase in the noise emanating from activities on the appeal site arising from a small change in the operational working hours would not have a harmful effect on the significance of Tewitts Farm, or the way in which its setting is experienced. I am therefore satisfied that its setting would be preserved. There would be no conflict with the Act or the advice of the National Planning Policy Framework (the Framework) which requires heritage assets to be conserved in a manner appropriate to their significance. The proposal would accord with Spatial Planning Objective SPO2 of the Core Strategy to protect the intrinsic quality of Wealden's historic environment.

Other Matters

15. I am aware of additional concerns raised by the occupants of Tewitts Farm arising from dust generated by activities within the Squires Farm Industrial Estate. They consider this affects their well-being and the usability of their land for grazing horses. However, the existing planning permission has a condition requiring the operation to comply with the dust management plan. This is not in dispute and is therefore not a matter for me to consider in the context of this appeal. I will impose the same restriction on the amended planning permission. It will be for the local planning authority to consider appropriate action in the event of any breach of that condition.

Conditions

16. I am satisfied that all the other conditions imposed by the Council on the original permission are justified and necessary to make the development acceptable in planning terms. However, it has been necessary for me to amend the wording of conditions 2, 3 and 5 which included requirements to be met within specific time limits. The amendments will ensure that the requirements for providing additional information about lighting, implementing the Surface Water Drainage Plan and constructing the ballast storage bays are completed in a satisfactory and timely manner. For the sake of clarity condition 5 has been sub-divided and the requirement to construct the ballast storage bays is new condition 8. If the matters addressed in conditions 2, 3 and 8 are not progressed as set out, the condition states that operations on the site shall cease until those requirements have been approved and implemented.

Conclusion

17. I have found that an amendment to condition 4 would meet the tests set out in paragraph 56 of the Framework and accord with the provisions of the development plan. I therefore conclude that the appeal should be allowed, subject to the conditions set out in the attached schedule.

S M Holden

INSPECTOR

Schedule of Conditions

1. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and reenacting that order with or without modification), the development hereby approved shall only be used for purposes within Class B2 for the processing of concrete and no other use as defined within Schedule 2, Part 3, Classes, shall be carried out on the site.
2. Unless within 1 month of the date of this decision a detailed scheme which shall provide for lighting that is low level, hooded and directed, to be illuminated only during the hours of operation of the site as detailed in the application, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 3 months of the local planning authority's approval, the use of the site for the processing of concrete shall cease until such time as a scheme is approved and implemented. Upon implementation of the approved lighting scheme specified in this condition, that lighting scheme shall thereafter be retained in use. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
3. Unless within 2 months of the date of this decision, the approved surface water drainage system, as detailed in the approved Drainage Report and Surface Water Drainage Plan has been implemented in accordance with the approved plans and the developer has notified the local planning authority of the completion of those works, the use of the site for the purposes of processing concrete shall cease until such time that the scheme has been implemented. Upon implementation the surface water drainage system shall thereafter be retained in use. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
4. The premises shall not be open and no machinery shall operate other than between the following hours:
 - a) 07.00-18.00 Mondays – Fridays
 - b) 07.00-16.00 Saturdays

Staff arrival on site shall only take place 30 minutes prior to the times specified above.

No operation of plant or machinery, receiving or dispatching of deliveries shall take place on Sundays and Public or Bank Holidays.

5. The development shall operate in accordance with the approved dust management plan as outlined within Chapter 4 of the Dust Risk Assessment and Management Plan by RF Environmental, dated March 2023, ref RFE-0492-23-01-01 (approved under WD/2022/2633/FR).

6. Prior to any vehicle leaving the site, the wheels and undercarriages shall be cleaned utilising the washout pit to ensure that they are free from mud and other debris to prevent the discharge of this onto the public highway.
7. This planning decision relates solely to the information contained within the application form, the following plans and documents submitted under WD/2022/2633/FR

Drainage Report	6 February 2023
Noise Report	6 February 2023
2022/PL1 Rev B	6 February 2023
Dust Control Report	8 March 2023
SUDS maintenance schedule	30 March 2023
16053/10	30 March 2023

8. Unless within 3 months of this decision the ballast storage bays outlined in the Dust Risk Assessment and Management Plan have been implemented as approved the use of the site for processing concrete shall cease until such time as a scheme has been implemented. Upon implementation of the ballast storage bays specified in this condition, they shall thereafter be retained solely for their designated purpose. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

End of Schedule of Conditions