

Appeal Decision

Site visit made on 23 September 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th October 2024

Appeal Ref: APP/F3545/W/24/3338382

Land adjacent The Timberyard, Chalk Road, Brandon IP27 0SD

- 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 Robert Ashley against the decision of West Suffolk Council.
 - The application Ref is DC/23/1244/VAR.
 - The application sought planning permission for the use of land on permanent basis for storage of sand and stationing of vehicles in association with sawmill/forestry work without complying with a condition attached to planning permission Ref F/99/042, dated 24 March 1999.
 - The condition in dispute is No 6 which states that: No vehicles or machinery shall be operated on the premises before 0800 Monday to Fridays and 0830 on Saturdays nor after 1800 Mondays to Fridays and 1700 Saturdays (nor at any time on Sundays or Bank Holidays).
 - The reason given for the condition is: To protect the amenities of the occupiers of nearby properties.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal site is part of a larger site, which is used as a sawmill and timberyard. Planning permission was granted under application reference F/99/042 to use the site for the storage of sand and the stationing of vehicles in association with sawmill/forestry work. This included, at condition 6, a restriction on the operating hours at the site. Application reference DC/23/1244/VAR sought to delete condition 6 to remove the restriction on operating hours.
3. The reason for the condition is to protect the amenities of the occupiers of nearby properties. Accordingly, the main issue is whether the condition is necessary, enforceable and reasonable having regard to the living conditions of the occupiers of neighbouring properties, with regard to noise and disturbance.

Reasons

4. The removal of the condition would allow for the operation of vehicles or machinery within the appeal site at any time. This could result in an increase in activity, including vehicle movements and the operation of machinery, at unsociable times immediately to the rear of the dwellings fronting Chalk Road. There is no substantive evidence before me detailing the activity at the site and the level of noise generated by the vehicles and machinery within the appeal site. Moreover, there is no assessment of the effect that any noise currently has on the occupants of the neighbouring properties and would have if the condition was to be removed. In the absence of such an assessment, I cannot be certain that the removal of the condition would not harm the living conditions of the occupants of the nearby dwellings.
5. The appeal site is immediately adjacent to the main part of the timberyard and sawmill, which is not subject to any restrictions in respect of operating hours, noise levels or vehicle movements. In addition, there is no separation between with the timberyard and sawmill. However, the extent of the appeal site is identifiable given that it is otherwise well-contained to the side of the main part of the timberyard. Furthermore, the layout of the area, including the boundaries of neighbouring properties, would make it clear to an observer whether any activity was taking place within the appeal site or the main part of the wider site.
6. Condition 4, which limits vehicle movements along the track to the side of the neighbouring properties, would be retained. This would assist in safeguarding the living conditions of the occupants of neighbouring properties. Nonetheless, the unrestricted operating hours to the rear of the dwellings would be likely to generate greater noise and disturbance than the limited number of vehicles that are permitted to use the track.
7. The National Planning Policy Framework (the Framework) states that any conditions should only be imposed where they meet the six tests, as set out in Paragraph 57 of the Framework. As such, due to the specific circumstances at the site, including its proximity to residential properties, I conclude that the condition restricting the operating hours at the appeal site is necessary, enforceable and reasonable and meets the six tests set out in the Framework.

Conclusion

8. For the reasons given above the appeal should be dismissed.

J Pearce

INSPECTOR