



Appeal Decision

Site visit made on 22 January 2025

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/U2750/W/24/3351801

Linton Mill, Wintringham, Malton, North Yorkshire YO17 8HP

- 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 Tom Mason of T Mason Services Ltd against the decision of North Yorkshire Council.
 - The application reference is ZE23/05617/FUL.
 - The development proposed is the installation of an ETA HACK 350 biomass boiler within an existing building to replace existing straw burning biomass boilers.
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Decision

1. The appeal is allowed and planning permission is granted for the use of a ETA HACK 350 biomass boiler and flue and the erection of a building at Linton Mill, Wintringham, Malton, North Yorkshire, in accordance with the terms of the application, reference ZE23/05617/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The lawful use of the red line site or the building hereby permitted, for the provision of heat to the already connected associated buildings, shall not commence until after the existing straw burning boilers have been removed and the ETA HACK 350 biomass boiler and flue have been installed.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Plan, Elevations and Plan View A1 IP/TMS/03A.
 - 3) The ETA HACK 350 biomass boiler hereby approved shall be fuelled only by woodchip or wood pellets from an accredited biomass fuel supplier and shall accord with the range of compliant fuels set out in part 3(b&d) of the submitted Emissions Certificate.
 - 4) No part of the site outside of the approved building shall be used for the storage of fuel associated with the ETA HACK 350 biomass boiler hereby approved.

Main Issue

2. The main issue is the effect on the living conditions of the residents of nearby dwellings in relation to noise, smoke and odour from the proposed biomass boiler.

Reasons

3. An existing unauthorised building is currently being used to house two unauthorised straw burning boilers and these are currently being used to heat the attached and nearby buildings. The details of the proposed building differ only slightly from the building as built with regard to the side openings. As such, much of the building element is retrospective. However, as the proposal includes the building, albeit with slight modifications, a new boiler and its flue, I have amended the description to clarify that the proposal also includes a building as illustrated on the plans. The proposal would also result in a change of use of the application site, as defined by the red line on the location plan, which is limited to the footprint of the building, as the boiler would serve a mix of uses, including agriculture, residential and industrial. Whilst the planning history indicates that these individual uses of the wider site are lawful, the use of the application site, for this mix of uses, is not.
4. The building shown and the flue are not considered to be of concern by the council, only the use and operation of the proposed boiler. Details have been submitted which include an Emissions Certificate. This sets out the range of fuels that can be used, including their allowable moisture content. Subject to all fuel meeting these standards, the boiler should not result in emissions that unacceptably harm the living conditions of nearby residents or the operation of nearby businesses. The appellant has advised that the condition suggested by the council, that the boiler be fuelled only by woodchip or wood pellets from an accredited biomass fuel supplier, would be acceptable. This should ensure that the fuel would fall within the range of compliant fuels set out in part 3(b&d) of the Emissions Certificate but I have added this requirement for certainty.
5. The council have also suggested that a condition requiring that no part of the site, outside of the building, be used for the storage of fuel associated with the biomass boiler. The appellant is also agreeable to this condition. I am not satisfied that it is necessary with regard to visual amenity as suggested by the council, but it would be necessary to ensure that the moisture content of the fuel remained within the requirements of the Emissions Certificate and to limit the use to the extent of the red line of the site as proposed. Subject to compliance with these conditions, the proposal would not conflict with policy SP20 of the Ryedale Local Plan Strategy 2013. It would however gain support from the 'Planning for climate change' section of the National Planning Policy Framework 2024.
6. It is evident that nearby residents and businesses have experienced issues with regard to smoke emissions from the site. It is not clear whether these were attributed to the existing boilers; the combined heat and power units that are also operated in the nearby building; or both. In any event, given the technical information provided and subject to the use of appropriate fuel, the proposed boiler should not contribute to these concerns.
7. Noise from the production of woodchip on site has also been raised as an issue. Although it is understandable that the import of timber, its chipping and drying, would be linked with this proposal, this is a separate matter, outside of the application site and beyond the scope of this appeal. Whether the process of creating woodchip, as described by neighbouring residents, is a lawful activity, is not a matter for this appeal.

8. With regard to traffic generation, I am not persuaded that the vehicle movements required to fuel the boiler would significantly alter the overall scale of movements associated with the existing lawful uses of the site.
9. In conclusion, the proposal would not result in unacceptable harm to the living conditions of neighbouring residents or businesses. As there are no other matters that weigh significantly against the proposal, that are directly relevant to the proposal, I allow the appeal.
10. The existing building is unlawful and is being unlawfully used in association with the mixed use of the associated buildings. I have imposed a condition to prevent the use becoming lawful before the removal of the existing boilers to ensure that the building can only be used lawfully for the proposed use of the new boiler, in the interests of residential amenity. This would not prevent the works necessary to alter the building being carried out, to accord with the approved plans. I have also required that the permission be carried out in accordance with the approved plans for the avoidance of doubt. I have imposed the conditions described above regarding fuel to ensure that the operation of the boiler satisfies the requirements of the Emissions Certificate.

Peter Eggleton

INSPECTOR