



Appeal Decision

Site visit made on 10 February 2025

by **S Pearce BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2025

Appeal Ref: APP/U2615/W/24/3347097

Hall Farm Business Park, Martham Road, Rollesby, Norfolk NR29 5DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr Chris Tooke against the decision of Great Yarmouth Borough Council.
- The application Ref 06/23/0880/F was approved on 5 April 2024 and planning permission was granted subject to conditions.
- The development permitted is the retrospective application for proposed retention of 4 units (6, 6a, 19 and 20) and the erection and/or completion of 3 no. new buildings (Units 9, 10 and 11, 7 in total) on the submitted plan to be used as storage/workshop units and for office use.
- The conditions in dispute are Nos 2, 3 and 4 which state that:
 - No 2: There shall be no installation or use of any external lighting on site without the express planning permission of the Local Authority.*
 - No 3: Within 3 months of the date of this planning permission a scheme of planting and biodiversity enhancement measures including the re-instatement and extension of the bund shall be submitted to and approved in writing by the Local Planning Authority. These measures shall include the following:*
 - The retention of the earth bund surrounding the hardstanding at Compound A.*
 - The retention of the boundary fencing facing Martham Road*
 - If more fencing is to be erected it should be open post and rail fences that allow easy and free migration of terrestrial vertebrates through the site.*
 - A bat survey to be undertaken and submitted to the Local Planning Authority.*
 - A planting scheme for the car parking areas including details of mixed indigenous species hedgerow, trees and/ or grass.*
 - Details of bird and bat boxes provision on site.*
 - Within 3 months of the date of approval these approved details shall be implemented and shall be retained as such thereafter.*
 - Any trees and shrubs so planted which dies within 5 years shall be replaced within one year by the applicants or their successors in title. No further works shall be undertaken without the express approval of the Local Planning Authority.*
 - No 4: No further works on site are to be undertaken until further details of the changes/proposed changes to all the relevant units (6a, 9,10,11,19 and 20) have first been submitted to the Local Planning Authority as follows:*
 - Details of all windows should be submitted at large scale (1:20) to the LPA and agreed in writing prior to commencement of development. Windows should be flush casements.*
 - All materials should be submitted and agreed in writing prior to any re-commencement of development.*
 - The development shall be undertaken only in strict accordance with the details as approved.*
- The reasons given for the conditions are:
 - No 2: In the interests of preserving residential amenity, dark sky character of landscapes, minimising impacts on biodiversity and foraging corridors, and to ensure a suitable form of development.*
 - No 3: To enhance the visual amenity of the site and to secure biodiversity enhancements in line with the NPPF.*
 - No 4: In the interests of protecting and managing heritage assets.*

Decision

- The appeal is allowed and the planning permission Ref 06/23/0880/F for the retrospective application for proposed retention of 4 units (6, 6a, 19 and 20) and the erection and/or completion of 3 no. new buildings (Units 9, 10 and 11, 7 in total) on the submitted plan to be used as storage/workshop units and for office use at Hall

Farm Business Park, Martham Road, Rollesby, Norfolk NR29 5DR granted on 5 April 2024 by Great Yarmouth Borough Council, is varied by deleting condition No 3 and substituting it with the following condition:

- 3) The buildings hereby permitted shall be demolished to ground level and materials resulting from the demolition shall be removed within 30 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
- i) Within 18 months of the date of this decision (i.e from 5 April 2024) a scheme for planning and biodiversity enhancement measures including the re-instatement and extension of the bund shall be submitted to and approved in writing by the Local Planning Authority. These measures shall include the following:
 - The retention of the boundary fencing facing Martham Road
 - If more fencing is to be erected it should be open post and rail fences that allow easy and free migration of terrestrial vertebrates through the site.
 - A bat survey to be undertaken and submitted to the Local Planning Authority.
 - A planting scheme for the car parking areas including details of mixed indigenous species hedgerow, trees and/ or grass.
 - Details of bird and bat boxes provision on site.
 - a timetable for implementation.
 - ii) If within 24 months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
 - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
 - iv) The approved measures shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved measures specified in this condition, those measures shall thereafter be retained. Any trees and shrubs so planted which die within 5 years shall be replaced within one year by the applicants or their successors in title.

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.

Applications for costs

2. An application for costs was made by Mr Chris Tooke against Great Yarmouth Borough Council. This application is subject of a separate decision.

Preliminary Matters

3. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and amended on 7 February 2025. Those parts of the Framework most relevant to the appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no parties interests would be prejudiced by my taking this approach.
4. As the appeal site lies within the setting of a listed building, I have had special regard to section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Background and Main Issues

5. The appeal site lies within an established business park. With regard to the development permitted, the Council considered the increase in commercial floorspace was acceptable in principle and permission was granted subject to several conditions.
6. The appellant contends that condition No 2, in respect of external lighting, is not necessary or enforceable, condition No 3, with regard to the timeframe applied for the preparation of a bat survey and its submission to the local planning authority, is unreasonable, and condition No 4, with particular regard to the submission of window details, is not necessary.
7. Therefore, the main issues are:
 - whether condition No 3 is reasonable in the interests of biodiversity,
 - whether condition No 2 is necessary and enforceable in the interests of protecting dark sky character, and
 - whether condition No 4 is reasonable and necessary in the interests of preserving the setting of a Grade II listed building, Hall Farmhouse.

Reasons

Condition No 3

8. Planning application reference 06/23/0880/F was granted consent on 5 April 2024. Condition No 3 requires the scheme of planting and biodiversity enhancement measures to be submitted to the local planning authority within 3 months of the date of the permission.
9. The works required as part of condition No 3 include a bat survey, which the appellant highlights should be carried out between May and August. Given the requirements of condition No 3, this allows only two months in which to prepare and submit the required information to the local planning authority, wait for the necessary approval and implement the approved works. Furthermore, the evidence indicates that there are currently difficulties in the availability of ecologists.
10. Consequently, the timing clause within condition No 3 is not reasonable, as it does not provide a sufficient period for the appellant to comply with the stipulated requirements. Considering this, I will delete condition No 3 and will impose a new condition requiring the information to be submitted within a revised timescale.

11. I have sought the views of the main parties in respect of the revised timescale of 18 months. Given that the planning consent is part retrospective, the Council consider a 6 month period would be appropriate.
12. However, consent was granted on 5 April 2024. Since then, the condition has been in dispute. Moreover, this appeal does not create a new, separate planning permission for the development. Therefore, a 6 month period from the date of the planning permission has already expired. Having regard to these matters, I am satisfied that a timescale of 18 months would provide a reasonable period for compliance.
13. With regard to the revised wording of condition No 3, there is a strict timetable for compliance because elements of the permission have been granted retrospectively, and so it is not possible to use a negatively worded condition to secure the approval and implementation of the outstanding matters before the development takes place.
14. Consequently, while condition No 3 is reasonable in the interests of biodiversity, its deletion and substitution with a revised timeframe and timetable for compliance, would ensure conformity with Policy CS11 of the Great Yarmouth Local Plan Core Strategy 2015 (LP), which seeks to avoid, among other things, any harmful impacts of development on biodiversity.

Condition No 2

15. Policy E3 of the Rollesby Neighbourhood Plan 2022 (NP) seeks to protect the dark night sky and states that any permitted lighting should be limited to specific operating hours and be designed so as to minimise adverse impacts on dark skies.
16. Moreover, the Great Yarmouth Design Code Supplementary Planning Document 2024 seeks, among other things, to ensure that where external lighting is required, it is designed and controlled to preserve dark skies.
17. It is acknowledged that the approved works are located within an established business park, within which the appellant states there are numerous amounts of lighting in place. Nevertheless, while noting this and the absence of a baseline level of lighting, any new lighting still has the potential to affect the dark sky night.
18. Therefore, an assessment of any proposed lighting, including its operating hours, needs to be undertaken prior to its installation, in order to ensure that any impacts it may have on the dark sky night are minimised.
19. With regard to enforceability, while noting no baseline survey has been requested, the condition is clear that relates to the installation of new lighting only.
20. Consequently, I therefore conclude that condition No 2 is reasonable, necessary and enforceable in the interests of protecting dark sky character, as required by NP Policy E3, as set out above.

Condition No 4

21. The appeal site lies close to Hall Farmhouse, a Grade II listed building (ref: 1050992). While limited information has been submitted in respect of this heritage asset, its significance is derived, insofar as is relevant to this appeal, from its

historic and architectural interests. This includes its age, former agricultural use, traditional construction and materials.

22. The appeal site formed part of the historic agricultural land associated with the farmhouse. Within it are two former farm buildings, which the Council assert are curtilage listed. These comprise an integral part of the former agricultural setting of the listed farmhouse and display English bond. Having regard to these buildings, and the adjacent modest built form, with its predominantly consistent fenestration, the appeal site contributes towards the setting of the heritage asset.
23. While the existing and proposed appeal buildings would be well screened from Hall Farmhouse, they are, nonetheless, located within the setting of the designated heritage asset, and visible in the context of the two former farm buildings.
24. The plans submitted with the planning application show the style and materials of the windows and the appellant highlights that the scheme is part retrospective. Nevertheless, while the submitted drawings state the windows will match the existing windows and reflect those within surrounding buildings, the Council's Conservation Officer highlights that the drawings show glazing bars that are out of central alignment in the top half of the window. Such a detail would be visually disruptive and would detract from the significance of the heritage asset.
25. Therefore, while noting that the Council found the development would result in less than substantial harm to the setting of the heritage asset, in light of the ambiguity in respect of the submitted details, I consider that the disputed condition is reasonable and necessary in the interests of preserving the setting of the Grade II listed building, Hall Farmhouse. This accords with LP Policies CS10 and E5, which seek to, among other things, ensure development conserves the significance of the borough's heritage assets.

Other matters

26. Notwithstanding my findings in respect of whether the disputed conditions are reasonable, necessary and enforceable, I find that they satisfy the remaining tests outlined within the Planning Practice Guidance and the Framework.

Conclusion

27. For the reasons given above, the appeal should be allowed. While I conclude that condition Nos 2 and 4 are necessary and therefore remain, unaltered, on the consent, the planning permission is varied by deleting condition No 3 and substituting it with a revised condition.

S Pearce

INSPECTOR