



Appeal Decision

Site visit made on 19 March 2025

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 May 2025

Appeal Ref: APP/J3015/W/24/3355220

Meadow View Glamping, Mill Farm, 62 Mill Road, Stapleford, Notts NG9 8GD

- 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 Ian Shakespeare (Aston Properties (UK) Limited) against the decision of Broxtowe Borough Council.
- The application reference is 24/00536/VOC.
- The application sought planning permission for change of use from agricultural land to recreational use, conversion of existing barn to coffee and farm shop with site managers accommodation, decking, parking and provision of an additional 3 glamping pods and retention of BBQ hut, without complying with a condition attached to planning permission Ref 23/00429/VOC, dated 5 September 2023.
- The condition in dispute is No 3 which states that: The coffee/farm shop hereby approved shall not be open to customers except between the hours of 09:00 - 17:30 Monday to Friday, 09:00 - 17:00 on Saturday and 10:00 - 17:00 on Sunday.
- The reason given for the condition is: To protect nearby residents from excessive operational noise and in accordance with Policy 17 of the Broxtowe Part 2 Local Plan (2019) and Policy 10 of the Aligned Core Strategy (2014).

Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs has been made by Mr Ian Shakespeare (Aston Properties (UK) Limited) against Broxtowe Borough Council. This is the subject of a separate decision.

Preliminary Matter

3. On 12 December 2024, an updated National Planning Policy Framework (the Framework) was published, replacing the version from December 2023. I have had regard to this as an important material consideration.

Background and Main Issue

4. The application made to the Council sought to vary a condition attached to a planning permission granted in September 2023, which was itself granted as a variation to an original planning permission, granted in December 2019¹ for the aforementioned change of use. The 2023 permission amended the original opening hours to correct an error whereby opening hours on Saturdays had been inadvertently omitted. The original permission was otherwise unchanged.

¹ Council Ref 19/00452/FUL

5. The disputed condition permits the coffee/farm shop to open from 9:00am to 5:30pm Monday to Friday, 9:00am to 5:00pm on Saturdays and 10:00am to 5:00pm on Sundays. The proposal seeks to extend the opening hours to 6:00am to half past midnight every day, with additional extended opening hours on New Year's Eve and 12 other days during the year. Further stipulations are proposed in respect of times when outdoor seating can be used, and restrictions on the playing of amplified music until such time as specified mitigation measures are in place.
6. Paragraph 57 of the Framework states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance provides further advice in this respect, confirming that these six tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.²
7. Based on the Council's reason for refusal, the main issue is whether the disputed and proposed conditions meet the aforementioned tests, having regard to the living conditions of nearby residents.

Reasons

8. The appeal site is located to the edge of Stapleford. It is understood to have formerly been in use for agricultural purposes, but planning permissions have been granted to diversify the use of the site, including the provision of glamping and B&B accommodation, a farm shop and café.
9. The site contains a large, modern barn for which there is planning permission for B&B accommodation on the first floor and the café/farm shop on the ground floor. The glamping pods and a communal BBQ hut are located to the north across a gravelled courtyard and are operational. The appellant also owns paddocks to the east and land to the south-west of the barn where permission for two other glamping pods has been granted but not yet implemented. The barn is located immediately to the north of dwellings on Meadow View. To the east, beyond the appellant's paddock, are dwellings on Northwood Street.
10. At the time of my visit, the main barn was not in use. A large, ground floor space was under renovation, with a substantial amount of building materials, fixtures and fittings within it awaiting installation. The B&B rooms on the first floor were also in the process of being fitted out but were not yet in use.
11. The disputed condition relates specifically to the hours of operation of the farm shop and café. Neither use has yet taken place, and the condition of the ground floor of the barn corroborates this. Among the points raised is that the site is being advertised as an events venue, and in applying for a premises licence, the site was described as a 'luxury glamping site with restaurant, bar and farm shop.' As such, the Council's concern is that use of the site for such events, or generally as a restaurant/bar in the evening with live music playing, would cause harm to neighbours' living conditions through noise and disturbance.
12. The permitted opening hours are consistent with the nature of a farm shop and café whereby business would be expected during daytime hours. The change in hours would allow members of the public to visit the site from early morning until

² Paragraph: 003 Reference ID: 21a-003-20190723

late at night. Neighbouring dwellings are located in very close proximity to the barn, with two rear gardens directly abutting its rear wall. The surrounding area is quiet in character, with Meadow View being a small cul-de-sac, Mill Road to the south being a dead end and expansive countryside to the west and north along the route of the River Erewash. Consequently, neighbouring occupants would be highly susceptible to noise and disturbance from activity on the appeal site.

13. The appellant correctly points out that it is beyond the scope of a Section 73 application to amend the description of development, and any condition amended by the application should not conflict with the description. The appellant argues that the Council wrongly considered the proposal as being for an events venue. However, it is evident from the submitted website extracts that the site is being promoted as a venue available for hire for events, including weddings. The nature of the E Use Class would allow use as a restaurant without a further grant of planning permission. The appellant states a desire to offer evening meals to guests staying on site, and cites the example of a café in Newark which changes to a bistro style offering in the evening. The appellant has also secured a premises licence allowing late night refreshment and amplified music. Ultimately, this evidence is relevant to consideration of how the premises may be used if longer hours are permitted, particularly as neither the café nor farm shop has actually commenced operation, and therefore there is no other evidence before me of how the site is being or may be used.
14. My observations on site were of a tranquil setting, influenced by the expansive open land around the river, where noise from commercial activity on the site would be clearly audible from neighbouring dwellings. Use of the site to serve evening meals, akin to a restaurant, and with the possibility of serving alcohol, would likely draw significant additional patronage in the evening hours, with visitors staying for extended periods of time. This would also increase the number of vehicle movements to and from the site along small, residential streets which would be expected to be quiet in the late evening. It would also raise the potential for patrons to gather outside, particularly in warmer weather, where they would generate noise and disturbance from conversation, smoke and general activity for extended periods throughout the day and into the early and then late evening.
15. The proximity of the barn to neighbouring dwellings means residents would experience this activity at close range. Even if use into the evening is as a café in line with the approved use, the fact that alcohol could be consumed and music played means it would take on a different character to use during the day and increase the likelihood of disturbance to neighbouring occupants, including from disruptive behaviour such as patrons talking loudly, singing or shouting when outside the premises or departing it late at night.
16. There is also little information before me as to the intended operation of the farm shop, but the proposed opening hours would allow use by members of the public as well as guests, at hours exceeding that of most smaller convenience stores. Such late night activity would exceed the scope of that proposed under the original application, and would add to the potential for noise, disturbance and security concerns for neighbouring occupants.
17. Moreover, as the approved farm shop and café has not yet been brought into use, there is no evidence to indicate that the hours are restrictive to the successful operation of the business. It is clear from the earlier planning applications that the

opening hours imposed were considered to strike an appropriate balance between the needs of the business and protecting neighbouring living conditions. The appellant points out that the B&B accommodation cannot open because the existing opening hours create a 'perverse situation' whereby B&B guests could not be served in the café before 9am Monday to Saturday or 10am on Sundays, nor could they avail of an evening meal or purchase provisions from the farm shop after 5/5:30pm. The permissions are described as being 'internally inconsistent.'

18. However, the B&B accommodation is a separate planning permission to the farm shop/café and thus no internal inconsistency occurs. The onus is on the appellant to ensure any permissions sought can operate in unison. This aside, the opening hours sought are significantly beyond that which would reasonably be required to serve guests breakfast, which the appellant states are typically between 6:30am and 9:30am on weekdays and 07:00am to 10:00am on weekends. It was open to the appellant to seek earlier opening hours in the morning to accommodate these needs, without also extending late into the night. The opening hours sought are also not specified to be only to serve on-site guests, but would allow patronage by the general public. Therefore, I am not persuaded that the purpose of the extended hours is simply to facilitate the B&B operation, but also to draw in additional public trade in the evening.
19. Several of the public representations point to a wedding held in the adjacent paddock in September 2024 which drew complaints because of loud music and late night activity. The appellant points to permitted development rights allowing temporary use of land up to 12 times per year, and that any use of the adjacent land for events falls outside of the scope of the application. Be that as it may, extended opening hours for the facilities within the barn would introduce the possibility of them being used as part of such events, or for standalone evening events. The opening hours sought would allow such events to be held on any day of the week, throughout the year. Contrary to the appellant, I regard 46 covers as capable of hosting a sizable event that would significantly increase the overall level of activity on the site, at times when neighbours would expect a quiet environment.
20. The appellant has provided noise assessments seeking to address impacts from plant, deliveries, customer car movements and use of external seating, and finally from amplified music, with a number of forms of mitigation set out and a restriction on the use of an outdoor decking area after 11pm. However, the mitigation proposed includes keeping all external windows and doors closed at all times, which I do not regard as practically achievable, given external seating would be available and patrons and staff would be expected to move regularly between the indoor and outdoor spaces, opening doors frequently, or in warmer weather where windows and doors may need to be opened for ventilation. This aside, the proposed mitigation does not address noise from people congregating outside other parts of the premises into the evening and late into the night, such as near the entrance if waiting for taxis. The extended opening hours sought would increase the potential for larger events to be held in the barn where such impacts would be exacerbated.
21. Reference is made to the Old Mill Social Club located to the other side of the dwellings on Meadow View. The indications are that this premises operates into the evening as a bar, but I have limited information as to the nature of any events or evidence of it causing disruption for neighbouring occupants, though I note it is long established and does not offer overnight accommodation. Moreover, the

appellant's technical assessments make no reference to the social club as a source of noise in the area. Ultimately, the presence of this facility does not offer justification for the proposal, which I have considered on its own merits.

22. The appellant is critical of the Council, and its Environmental Health (EH) department, for apparent inconsistency between the approach to granting the premises licence and that taken in this and earlier applications to vary the opening hours. However, licensing and planning are separate regimes, conducted under different legislation with different requirements to be met. The fact that a premises licence has been granted to trade to certain hours is not in and of itself justification for longer opening hours in planning terms. The evidence indicates the Council, and its EH department, have been consistent in expressing their concerns across multiple planning applications. The appellant's efforts to address noise matters through technical assessments has not addressed the Council's stated concerns. Moreover, these concerns are not limited to hours after 11:00pm which are specifically covered by the premises licence, but include the earlier evening wherein the quiet environment of the area would be severely undermined by commercial activity, whether that is a café/farm shop, a restaurant, an events venue or some combination of these.
23. In reaching a view, I have considered whether other opening hours or conditions could be imposed, but ultimately I am not satisfied that noise and disturbance arising from activity on the site, particularly in external areas, could be suitably controlled through planning conditions.
24. For these reasons, I conclude that the existing opening hours are appropriate and necessary to ensure the development preserves the living conditions of neighbouring occupants. To extend them as proposed would conflict with Policy 10 of the Aligned Core Strategy (September 2014) and Policy 17 of the Part 2 Local Plan (October 2019), which together require development to make a positive contribution to the public realm and sense of place; create an attractive, safe, inclusive and healthy environment and ensure a satisfactory degree of amenity for neighbouring properties. There would also be conflict with the Framework, which states that development should create places with a high standard of amenity for existing and future users.
25. The Council has also cited conflict with Policy 19 of the Part 2 Local Plan, but this was not cited in the original reason for imposing the condition, and is in any event more directly related to land contamination. As such, I find no direct conflict with it.

Conclusion

26. I conclude that the disputed condition is necessary to make the development acceptable in planning terms. The proposal would conversely conflict with the development plan, taken as a whole, to which I attribute very significant weight. I acknowledge there are likely to be economic benefits arising from permitting extended trading hours, but these are unquantified. Therefore, they attract limited weight and would not be sufficient to outweigh the development plan conflict. Consequently, the appeal should be dismissed.

K. Savage

INSPECTOR