The Planning Inspectorate

Appeal Decision

Site visit made on 21 May 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2019

Appeal Ref: APP/A2525/W/19/3224871
Copelade Lodge, Little Lane, Whaplode, Spalding, Lincolnshire PE12 6RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by MPL Home Improvements against the decision of South Holland District Council.
- The application Ref H23-0718-18, dated 17 July 2018, was refused by notice dated 11 October 2018.
- The development proposed is the change of use of land from paddock to builders yard.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have described the proposal as the 'change of use of land from paddock to builders yard (retrospective), erection of fencing and the installation of a septic tank'. It is noted that the Appellant has also utilised this description on their appeal form. From the information before me, I consider that this provides a more accurate description of the proposal before me.

3. In addition to the above, since the determination of the application by the Council the South East Lincolnshire Local Plan 2011-2036 (the SELLP) has been adopted (on 8 March 2019). The SELLP has superseded all policies from the South Holland Local Plan (2006). I have therefore determined the appeal with the newly adopted Local Plan in mind.

Main Issues

4. The main issues are the effect of the development on:-

(i) the character and appearance of the area;
(ii) the living conditions of the occupiers of nearby residential properties with particular regard to increased noise and disturbance; and
(iii) highway safety.

Reasons

Character and appearance

5. The appeal site is located in a rural area where the land is predominantly used for agricultural purposes. At my site visit I saw that there are clear views of the appeal site from Little Lane and Mill Gate owing to the lack of any meaningful landscape screening. I also observed the nearby buildings associated with the

bed and breakfast premises opposite the entrance to the appeal site (Westgate House) and the complex of buildings on the southwestern corner of Little Lane and Mill Gate. I also saw the agricultural buildings and domestic properties on Thorpe's Lane.

6. The appeal site itself contains a modern bungalow which at the time of my site visit was in the process of being extended. There was also a large curtilage to the property. Part of the appeal site has been recently fenced off and from the submitted plans it is this area which is proposed to be used as a builders yard. That said, the plans also show buildings associated with the builders yard use outside of this fenced off area and within the area assumed to be part of the domestic curtilage.

7. From the evidence before me, the site is located outside of any defined development boundary and therefore, in planning policy terms, is located in the countryside.

8. The area of the builders yard is shown on the drawings to be around 43.6 metres wide by 80 metres in depth (from front to back) which equates to an area of just under 3,500 square metres. The submitted plans show very little detail of what the site would be used for with only small areas for daytime staff and overnight company vehicle parking shown in addition to a small area for storage containers. Furthermore, the application and appeal documents (including the justification statement) provide very little extra detail in this respect.

9. Despite the assertions of the Appellant, the area is predominantly agricultural in character. To my mind, the introduction of a builders yard would have an unacceptable marked change in this character. This change in character is also emphasized by the fencing which has already been erected largely along the northern and eastern boundaries of the site. The fencing has resulted in a hard boundary and there is little prospect of any meaningful screening to help soften its harsh visual appearance. This is particularly the case given the clear views of the fence across the adjacent field which does not have any hedgerows or screening from the public highway.

10. Taking all of the above into account the use of the site for a builders yard would have a harmful impact on the overall rural character and appearance of the area. In coming to that view, I acknowledge that there are other commercial premises in the area. However, from what I understand these are generally occupying buildings/land which have been previously used for agricultural or horticultural purposes. Moreover, these sites do not justify further incursions into the countryside.

11. The Council have also raised concern over the sustainability of the location of the builders yard. However, in this respect, there is nothing to suggest that a rural location for such a use is inappropriate. That said, the appeal site is clearly not in the most sustainable location. However, I consider that this is not a determinative factor in this case.

12. For the above reasons the development would harm the rural character and appearance of the area and would be contrary to Policy 2 and Policy 3 of the SELLP which amongst other matters seek to ensure that development respects the character and appearance of the area, the landscape character of the area, and the relationship to existing development and land uses. It would also be at

odds with the overarching aims of the National Planning Policy Framework (the Framework).

Living conditions

13. From what I understand, much of the concerns raised by local residents resulted from the building works associated with the existing dwelling and the works that have already been carried out at the site (including the access driveway and fencing). However, given that these concerns primarily related to building works at the site (as opposed to the use of the site as a builders yard) I have given these comments limited weight in my decision.

14. The main part of the builders yard would be located immediately adjacent to a residential property (Harrington House) where there is also a cattery business operating from.

15. The Appellant has stated that noise from agricultural activities is evident at peak time such as wheat harvest and that there is also a hardcore processing site nearby which has an exceptionally high level of noise and bulk deliveries.

16. At my site visit I noted that there was little background noise in the area and any noise arising from the appeal development would be likely to be heard from nearby residential properties. Whilst my site visit was only a snapshot in time, I did not hear any significant noise from either of the noise sources quoted by the Appellant. Furthermore, noise from agricultural activities is to be expected in such a rural area.

17. Whilst the exact use of the whole site has not been detailed, it is likely that there would be at least some activity in the yard during the working day, including deliveries. The Appellant has suggested that it would be likely that vehicle movements would be restricted to the start and end of each working day, together with a 'materials' delivery once a week (as most materials would be delivered directly to the building site being worked on). However, given the sheer size of the yard I am not convinced by this suggested level of activity.

18. To my mind, taking into account the limited evidence before me (and in the absence of any convincing evidence to the contrary), the level of activity at the site would be likely to cause a level of noise and disturbance which would harm the living conditions of the occupiers of Harrington House particularly given the low background noise levels in the area.

19. In respect of noise to other properties, such as Westgate House, the principle concern relates to that associated with traffic movements. Whilst I consider that noise and disturbance from cars and light goods vehicles would not be significant, the same cannot be said of heavy goods vehicles given the proximity of Westgate House to the access to the yard from the public highway. This factor adds weight to my concern over the impact of the development on the living conditions of the occupiers of nearby residential properties.

20. In addition to the above, concern has been raised in respect of potential dust and debris from the site. However, in these respects, I consider that any concerns relating to these matters could be addressed through the imposition of a suitably worded planning condition should I be minded to allow the appeal.

21. For the above reasons the development would harm the living conditions of the occupiers of Harrington House contrary to Policy 2, Policy 3 and Policy 30 of the SELLP which amongst other matters seek to ensure that development does not impact upon neighbouring land uses or residential amenity by reason of noise and disturbance.

Highway safety

22. The appeal site is accessed from Little Lane, which is a typical single carriageway rural road with soft verges and no separate pedestrian walkway. From the evidence before me there would be 14 people employed by the business and it is likely that there would be a similar amount of arrival and departures from the appeal site at the start and end of the working day owing to the location of the site.

23. The Appellant has suggested that traffic would be routed towards Mill Gate to/from the site, which would involve travelling along around 200 metres of the single carriageway road with no passing places.

24. Whilst I saw from my site visit there is good forward visibility, the development would result in an increased potential for conflict between vehicles along this narrow section of road. Given the lack of passing places, any vehicle which met another vehicle on this stretch would invariably have to reverse for a significant distance. This would be particularly problematic during the winter months when such conflicting vehicle movements may occur during the hours of darkness. Taking this into account, the impacts of the development would have an unacceptable impact on highway safety.

25. In coming to that view, I acknowledge that there is already potential for such conflicts along Little Lane owing to the existing residential, commercial and agricultural traffic. However, from the limited evidence before me, the appeal development would have a material increase in the amount of traffic using this section of road at the start and end of the working day.

26. For the above reasons the development would result in an unacceptable adverse impact on highway safety contrary to Policy 2 and Policy 7 of the SELLP which amongst other matters seeks to ensure that development does not have a significant adverse impact on the local highway network and provides for a suitable access. It would also be at odds with the highway safety aims of the Framework.

Other matters

27. Opposite the appeal site entrance is Westgate House which is a grade II Listed Building. My attention has also been drawn to another listed building, Holly House on Thorpe's Lane. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of these listed buildings.

28. The part of the appeal site where the development is proposed is away from both of these listed buildings and I am of the view that the development would not have any adverse impact on the setting of either of these buildings.

29. In addition to the above, in respect of Westgate House, all traffic associated with the development would enter/exit the appeal site in proximity to this building. I have also taken into account the concerns raised by the occupier of

that property in respect of vibrations from passing traffic. However, I find that the potential additional vibrations would not affect the setting of this building nor would it provide a compelling reason to withhold planning permission should I have been minded to allow the appeal.

30. The Council have also outlined that the development would not integrate effectively with existing businesses and that no mitigation measures are proposed to remediate such impacts and have referred to paragraph 182 of the Framework. Paragraph 182 outlines that planning decisions should ensure that new development can be integrated effectively with existing businesses. However, it goes on to state that existing businesses should not have unreasonable restrictions placed upon them as a result of development permitted after they were established. In my view, the overarching aim of paragraph 182 is to prevent undue restrictions being imposed on existing uses (for example as a result of noise generated from the existing business which may adversely affect a proposed noise sensitive use).

31. Finally, I have also had regard to the Appellants search for an appropriate site for the business over an 18-month period. However, very little evidence of this has been provided to me and therefore I can only give this very limited weight in my decision. Taking this into account, I find that the harm I have found is not outweighed by the possible lack of alternative sites.

Conclusion

32. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR