



Appeal Decision

Site visit made on 31 October 2017

by Rachael A Bust BSc (Hons) MA MSc LLM MEnvSci MInstLM MCMi MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 November 2017

Appeal Ref: APP/Z2505/W/17/3178639

Holly Cottage, 107 Sea Lane, Butterwick, Boston, Lincolnshire PE22 0HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Christopher Flatters against the decision of Boston Borough Council.
 - The application Ref B/17/0004, dated 8 December 2016, was approved on 27 April 2017 and planning permission was granted subject to conditions.
 - The development permitted is change of use from agricultural Dutch barn to log storage and use of log splitting machinery in outside yard area.
 - The condition in dispute is No 5 which states that: *"The operations associated with the log splitting operation, including the operation of equipment, moving of storage bins, timber stacking, site clearance and preparation, shall not take place more than 3 days in any one calendar month and shall not take place except between 1 October and 31 May each year. The operations associated with the log splitting operation, including the operation of equipment, moving of storage bins, timber stacking, site clearance and preparation, shall only take place between the hours of 9.00am and 5.00pm Mondays to Fridays, and at no time on Saturdays, Sundays or on public holidays."*
 - The reason given for the condition is: *"In the interests of the amenity of nearby residents and to accord with Adopted Local Plan Policy G1."*
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Decision

1. The appeal is allowed and the planning permission Ref B/17/0004 for the change of use from agricultural Dutch barn to log storage and use of log splitting machinery in outside yard area at Holly Cottage, 107 Sea Lane, Butterwick, Boston Lincolnshire PE22 0HN granted on 27 April 2017 by Boston Borough Council, is varied by deleting condition No 5 and substituting it for the following condition:
 - (5) The operations associated with the log splitting operation, including the operation of equipment, moving of storage bins, timber stacking, site clearance and preparation, shall not take place more than 3 days in any one calendar month and shall not take place except between 1 September and 31 May each year. The operations associated with the log splitting operation, including the operation of equipment, moving of storage bins, timber stacking, site clearance and preparation, shall only take place between the hours of 09:00 and 17:00 Mondays to Fridays, and at no time on Saturdays, Sundays or on public holidays.

Background and Main Issue

2. Planning permission was granted retrospectively for the change of use from agricultural Dutch barn to log storage, and the use of log splitting machinery in outside yard. The log splitting operations are restricted to between 09:00am and 5:00pm, Monday to Friday (and not on Saturdays, Sundays and public holidays) and to no more than 3 days per calendar month between 1 October and the 31 May. Thereby giving a possibility of activity on a total of 24 days per annum.
3. The appellant is seeking to increase the total number of days allowed each year to 27 by including the month of September into the working period.
4. The main issue is whether the disputed condition is necessary and reasonable in the interests of the living conditions of the occupiers of neighbouring "Field View" with particular reference to noise and disturbance.

Reasons

5. The appeal site is a barn with forecourt lying within the common ownership boundary of "Holly Cottage" which also includes the dwelling, garage, another barn and paddock with stables. "Field View" is a neighbouring bungalow and is the nearest property to the appeal site. The surrounding landscape is characterised by large, flat fields that are in productive agricultural use.
6. The operation of the log splitting equipment is a source of noise generation within this flat and open countryside landscape. In principle a condition limiting the operation of the log splitting operation is necessary and reasonable to protect the living conditions of the occupiers of "Field View". The permission also requires the use of a continuous straw bale barrier as a noise attenuation measure between the appeal site and "Field View." I saw on my site visit that a straw bale barrier was in place.
7. From the evidence before me the Council's Environmental Health Officer did not suggest that log splitting operations needed to be restricted to specific months of the calendar year. Whilst the Planning Officer's Report referred to the restriction to specific months and indeed stipulated the period from September to May, the subsequent Decision Notice specifies a shorter period and excludes the month of September. I have no cogent evidence before me to explain neither the difference between the Planning Officer's Report and Decision Notice nor why the restriction to specific months of the year has been imposed.
8. I acknowledge the concerns raised by the occupiers of "Field View" that the inclusion of September would allow log splitting to occur during a period when they would expect to undertake gardening activity. However, to include September, as sought by the appellant, would increase the operation by an additional 3 working days. I do not find this increase to be significant such that it would materially compromise the living conditions of the neighbouring occupiers. The condition, as amended, would still restrict business activity on the site and ensure that it remains a relatively low-level operation. The maximum number of potential days of activity would total 27. This is still within the 28 day annual maximum suggested by the Environmental Health Officer and detailed in the Noise Impact Assessment Report (NIAR).
9. I have had regard to the concerns raised about the NIAR not being representative of the actual activity and conditions on the site. However, the

report was considered by the Environmental Health Officer to be acceptable, and I have no technical evidence before me to dispute this professional finding. I note that the mitigation measures recommended in the NIAR were included within other planning conditions on the permission.

10. The issue of impact on property values has been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as the value of land or property. The concerns relating to the acceptability of the log splitting operation in this location were considered by the Council in its determination of the planning application. This appeal is confined to the disputed condition and not the principle of the development.
11. I conclude that the condition limiting the hours and days that the log splitting operation could take place to be, in principle, necessary and reasonable in the interests of the neighbouring occupiers, with particular reference to noise and disturbance. However, there is no cogent evidence to explain why the period of October to May was imposed. The inclusion of the additional month sought would only allow an extra 3 working days of log splitting and associated operations. As such, it would still comply with Policy G1 of the Boston Borough Local Plan, which amongst other things, seeks to ensure that developments would not have a harmful effect on nearby residents.

Conclusion

12. For the reasons given above, and taking all other matters into consideration, including the concerns raised by neighbours, I conclude that the appeal should be allowed. Condition 5 is therefore varied as set out in the formal decision.

Rachael A Bust

INSPECTOR