TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY THRIPLOW FARMS LTD
SITE ADDRESS: Land East of Fowlmere Road, Foxton

PINS Reference: APP/W0530/W/18/3210962
LPA Reference: S/3566/17/FL

HEARING STATEMENT OF THE LOCAL PLANNING AUTHORITY

1. Introduction

1.1 This statement is intended to represent the hearing statement of the Local Planning Authority (LPA), providing an update further to the additional information received, the amendments proposed and in response to the hearing statement of the appellant, as agreed in the Statement of Common Ground (SoCG).

2. Amended Plans

2.1 The LPA accepts, as per the SoCG (para. 11), that it is open to the inspector to consider the removal of the bund as an amendment. The LPA has undertaken a re-consultation on the amended plans, as it considers this is a material change in the context of the development. Copies of the responses received are included in Appendix A.

2.2 In light of the timescales available between the hearing and the submission of the amendments, the LPA has only had opportunity to provide a 14 day re-consultation. The LPA would wish to note the relevant case law (Appendix B), and invite the inspector to consider whether this amendment prejudices the ability of any parties to appropriately consider and review the case. The amendments proposed alter the development the LPA first had before it to consider as a matter of weighting the harm to the Green Belt against the Very Special Circumstances put forward, as well as the proposed noise mitigation measures, which have been put forward as a concern by close residents of the site.

3. Noise

3.1 The details put forward have been reviewed by the Environmental Health Officer (Appendix C), who considers they represent an improvement in relation to the previous details put forward. The LPA considered that noise impacts were acceptable as part of the application as first put forward, and continue to be of that opinion in relation to the proposed amendments.
4. Principle of Development in the Green Belt

4.1 The LPA agrees that the grain store, silos and rainwater harvesting tank are appropriate by development in the green belt by definition, in accordance with para. 145(a) of the NPPF 2019, as set out in the agreed SoCG.

4.2 However, in considering those elements of disagreement, namely the hardstanding, weighbridge and the bund, the LPA considers that the scale and bulk of the agricultural building would draw attention to the site as a whole, and these elements would be readily more noticeable in terms of their impact on openness than they might as stand-alone developments. As such, the LPA considers this development should be considered as a whole.

4.3 The LPA maintain the development would conflict with the purposes of designating the site as green belt and would adversely impact the openness of that area, through the use of the land and the fact that the development would significantly alter a principally open area of land, and encroach into the countryside, as set out in the Committee Report (Appendix D, paras. 43-51).

4.4 In addition, the LPA notes there has been a change in the Very Special Circumstances (VSC) first considered to weigh against the harm as part of the original application have changed since the application. At the time of the application, the following were considered to represent VSC;
   - Improved facilities in comparison to the existing, which would provide materially longer capability in supporting a high crop quality and yield, and adapting to changes in legislation over the coming years.
   - Longevity of the business maintains and improves economic benefits and jobs to support the local economy.
   - Better road access than the existing facility location.
   - Lack of alternative lower quality available land for the development.
   - An application submitted on the Lodge Road site for housing (ref. S/3591/17/FL), which was supported by officers, would have bought about a benefit that required the relocation of the agricultural buildings and business, at a time the LPA was not able to demonstrate a five year supply of housing land.

4.5 Since the application, the latter two points appear to have fallen away or been called into question. The application to develop the existing site for housing has not been pursued at appeal, and the site does not appear to have been put forward in the latest call for sites, though even if it had the LPA does not consider that should carry material weight in light of the stage of the emerging plan.

4.6 In light of that, it appears that the existing site is available for development, as a partially brownfield site (in light of the garage on site), mostly out of the Green Belt. Officers also note that it appears there is a possibility, in terms of land ownership, that a safe access could be provided from the Lodge Road site direct to Fowlmere Road, to improve the existing accessibility of that site as part of any redevelopment proposal.

4.7 With regards to the above, the LPA would maintain that the proposal does not provide sufficient VSC that clearly outweigh the identified harm in accordance with para. 144. Of the NPPF 2019.
5. **Permitted Development Fall-back**

5.1 The LPA notes the comments put forward with regards the fall back position afforded by Schedule 2 Part 6 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).

5.2 The LPA would put forward that any fall-back must have a realistic prospect of coming forward, in accordance with relevant case law (Appendix D). The LPA considers those elements put forward by the appellant (para. 25 of the Appellant’s Hearing Statement) as being capable of be constructed without express planning permission, would be unlikely to come forward without permission being forthcoming on the whole. In any event, the LPA does not consider it has been shown there is a realistic fall-back, since there is a notification procedure required, and, as stand-alone elements, the LPA would have queries with regards to whether the location and siting is acceptable. Notwithstanding, no application for a Lawful Development Certificate has been made, and no substantial assessment has been made by the appellant to demonstrate these elements would comply with the relevant regulations.

6. **Other Matters**

6.1 The LPA is content to rely on its previous Committee Report and Statements of Case in-so-far as they relate to other planning matters and suggested conditions, relevant policies and comments received.

6.2 The LPA notes the submitted comments from the LLFA as part of the re-consultation on the amended appeal. It considers that the site as a whole is of a form that it is readily capable of being made acceptable in drainage terms with appropriate conditions, as set out in the list of suggested conditions.
Appendices

A  Reconsultation Responses

B  Court Judgement – Holbourn Studios Ltd V London Borough of Hackney [2017] EWHC 2823 (Admin)

C  Environmental Health Officer Comments in respect of amended appeal scheme

D  Committee Report ref. S/3566/17/FL

E  Court Judgement - Zurich Assurance Ltd V North Lincolnshire Council [2012] EWHC 3708 (Admin)