Appeal Decision
Hearing Held on 2 April 2019
Site visit made on 2 April 2019

by Andrew Owen  BA(Hons) MA MRTPI
an Inspector appointed by the Secretary of State
Decision date: 14 May 2019

Appeal Ref: APP/W0530/W/18/3210962
Land east of Fowlmere Road, Foxton

- 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 Mr David Walston of Thriplow Farms Ltd against the decision of South Cambridgeshire District Council.
- The application Ref S/3566/17/FL, dated 29 September 2017, was refused by notice dated 25 April 2018.
- The development proposed was originally described as construction of a new grain store and creation of an access from Fowlmere Road together with planting and formation of an acoustic bund.

Decision

1. The appeal is allowed and planning permission is granted for a new grain store and creation of an access from Fowlmere Road together with planting at Land east of Fowlmere Road, Foxton in accordance with the terms of the application, Ref S/3566/17/FL, dated 29 September 2017, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the course of the appeal amended plans were submitted which removed the acoustic bund from the development. The Council undertook public consultation on these plans and comments have been received. I am therefore content to determine the appeal on the basis of the amended plans as no parties would be prejudiced.

3. Since the time of the Council’s decision, their Development Control Policies Development Plan Document (2007) has been superseded by the South Cambridgeshire Local Plan (LP) 2018. It is common ground between the parties that policies GB/1 and GB/2 referred to in the Council’s decision letter have been superseded by policies S/4 and NH/8 of the LP respectively.

Main Issues

4. The main issues are

- whether the development would be inappropriate in the Green Belt for the purposes of the National Planning Policy Framework (the ‘Framework’) and development plan policy; and
- the effect on the character and appearance of the area.

https://www.gov.uk/planning-inspectorate
Reasons

Inappropriate development?

5. LP policy S/4 identifies that new development within the Green Belt will only be approved in accordance with Green Belt policy set out in the Framework. Paragraph 145 of the Framework is clear that the construction of new buildings in the Green Belt is inappropriate, but an exception to this is buildings for agriculture. It is not disputed between the parties that the three proposed buildings, annotated as A, B and D on the drawings, would be agricultural buildings. They are therefore not inappropriate.

6. The other part of the development comprises the access and hardstanding. It is agreed between the parties that these works would constitute an engineering operation. Paragraph 146 of the Framework states that engineering operations are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. The Council consider that the hardstanding and its use by vehicles would impact on openness spatially in comparison to the current use of the land which is a field. They also suggest that when seen in connection with the buildings, the development as a whole would detract from the openness of the area.

7. I do not consider it is incorrect to evaluate the development as a whole. However, as the primary part of the proposal is the buildings, it would be wrong in my view to use an assessment of the effect on openness of the hardstanding and access which serve the buildings as a way to consider the impact on openness of the buildings themselves. It would be more fitting to consider that as the buildings cannot affect openness, due to their not inappropriate status, then the development as a whole, including the ancillary hardstanding and access cannot affect openness.

8. Even if I were to consider the access and hardstanding separately from the buildings, they would be at ground level and would be largely imperceptible in views of the site from positions nearby. Indeed, I noticed a small area of hardstanding further north along Fowlmere Road which had no impact on openness and, whilst not as extensive as that proposed, this suggested that this form of engineering operation would preserve the openness of the Green Belt even when used by vehicles. Furthermore, it was not suggested to me that this part of the development would conflict with the purpose of including land within the Green Belt.

9. Consequently, the development would not be inappropriate in the Green Belt. It therefore would accord with policy S/4 as described above. As there is no harm to the Green Belt, I do not need to assess whether there are any other considerations to outweigh Green Belt harm.

Character and appearance

10. From my site visit, I saw that the area is characterised by large fields with occasional trees, bushes and hedgerows along their edges. With the exception of the dwelling at Russet House to the south of the site, the other buildings in the area are generally in agricultural or industrial uses and hence are functionally designed and appropriately sized for their purposes. The land rises slightly towards the settlement of Foxton and from here, and particularly from
Foxton woods, the spacious, generally flat agricultural landscape, including the appeal site, is most apparent.

11. This is consistent with the Cambridgeshire Landscape Guidelines 1991 which identifies this area as being within the Chalklands landscape. It characterises the landscape as comprising a broad-scale landscape of fields, low mechanically trimmed hedges and few trees. It adds that there are a number of woodlands and shelter belts which help to break up long distance views. In addition, I understand the South Cambridgeshire District Design Guide 2010 identifies that a key local characteristic is isolated farm buildings hidden by groups of trees or shelterbelts.

12. Due to the absence of any built development on this side of Fowlmere Road near the site, the proposal would inevitably appear prominently in its context, especially as the largest of the proposed buildings would, in the most part, be around 13 metres high to its ridge.

13. However views from Fowlmere Road south of the site and from Russell House would mostly be mitigated by the roadside planting, and views from Fowlmere Road to the north would also be limited by the tree belt which runs along a field boundary to the north of the site. The directions from which the development would be most visible, as well as from directly in front of the site, would be from Cambridge Road to the east, from the public footpath to the west and from the high ground at Foxton woods. From these locations the views would be relatively long distance.

14. The Council agree that the development would not impact harmfully on the landscape character of the area, but there is considerable local opposition. As local residents would experience the development on a daily basis I have considered their opinions, and the illustrative evidence provided by them, carefully. However, I agree with the Council and the appellant that the provision of large agricultural building is commensurate with the use of the land in this area. Whilst the buildings would be taller and larger than most, such as those at the appellant’s existing premises and at the AutoStore complex on the other side of Fowlmere Road, I do not consider their scale would be incongruous in their setting.

15. A detailed landscaping scheme can be secured by a planning condition, but the initial details provided show planting belts along the north and south boundaries and a deeper wooded area at the front of the site. At the hearing I heard that the poor chalk soil may slow the growth of such vegetative screening, however this was based on experiences at Foxton wood where the land is higher, and the soil potentially thinner than that at the site where the appellant already successfully grows crops (though I accept these are likely to not require as deep soil as trees). Nonetheless, I consider a planting strategy could be developed with appropriate species and planting sizes to ensure that a healthy landscaping buffer is provided. This would not screen the proposal completely, which the appellant accepts and which I consider is not necessary, but it would assist in blending the buildings into the rural landscape.

16. Consequently, I consider the proposal would not unacceptably harm the character and appearance of the area. The proposal therefore would accord with LP policy NH/8 which states that landscaping can be used to mitigate the effect of a proposal on the Green Belt, and also NH/2 which requires development to respect the local landscape.
Other matters

17. I acknowledge the concerns of some local residents, including the occupiers of Russet House, regarding the potential for noise from the site to be disturbing for them. The noise assessment robustly assessed the cumulative noise generated by the cooling fans, grain dryer and HGV movements delivering and loading grain. The assessment showed that there would be an increase of 1dB above background noise levels at Russet House, which they considered to be at the limit of perceptibility, and no increase above background noise levels at the nearest properties in Foxton to the north. The Council do not dispute this and raise no objection on these grounds, and I have no reason to either.

18. I recognise that the assessment does not factor in tractor movements either at the site or along Fowlmere Road and these could be numerous and at night. However as the site is currently used by the appellant as a field, there is currently no limit on the number of tractors, or the time of day they operate, which could already pass along Fowlmere Road or enter the appeal site. Notwithstanding this, the Council confirm that there is other legislation which allows them to investigate and, if necessary, take action against any statutory nuisance. This would also apply to concerns regarding dust.

19. The appellant confirmed that the development would result in a reduction in traffic on the highway network compared with the existing operations on Lodge Lane, as many vehicles would be able to access the site across the appellant’s existing fields and not via Fowlmere Road. The ability to produce their own fertilizer, facilitated by the development, would also negate the need for that product being imported which would also assist in reducing traffic. The appellant also confirmed that they would not be storing grain other than that produced by themselves. The likely routes for HGV traffic would not run through Foxton on Fowlmere Road which is narrow in places.

20. The Lead Local Flood Authority raised objection to the proposals and Mr & Mrs Frost highlighted that they take water from a nearby borehole, the impact on which had not been considered. The Council are satisfied that a condition requiring further details of the foul and surface water drainage system to be submitted for approval could address these concerns. I have no reason to come to a different view, though it was agreed at the hearing to amend the relevant condition to include specific reference to boreholes.

21. I am aware that planning permission was refused for an agricultural building close to the appeal site. However, that was around 13 years ago and would have been determined under a different local and national policy background. It is not directly comparable to the current scheme which I must determine on its own merits. Likewise, any subsequent proposals must be determined on their own merits and therefore this development should not set a precedent.

22. Though a query was raised regarding whether an existing access, north of the proposed site, could be used instead of the proposed access, that is not the development before me and I need not consider this, nor any other alternative scheme.

23. Two appeal decisions were provided to me at the hearing, but neither have any significant bearing on my decision as they both relate to developments of a distinctly different nature to the agricultural proposal before me.
Conditions

24. Most of the conditions I have imposed are as agreed in the Statement of Common Ground (SoCG). Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to better reflect the advice in the Planning Practice Guidance and the Framework. I have consulted the main parties where I have made any alterations of consequence.

25. I have imposed the standard conditions relating to the commencement of development and specifying the relevant plans in order to provide certainty.

26. In order to protect the character and appearance of the area I have attached conditions relating to external materials, boundary treatment, lighting and the implementation, management and maintenance of landscaping. The conditions relating to the provision and drainage of the access are necessary in the interests of highway safety and those relating to surface and foul water drainage are required to prevent the increase risk of flooding and to maintain water quality. I have also included conditions ensuring biodiversity enhancement and the assessment of any archaeological finds.

27. I have included a number of conditions limiting the hours of HGV movements, the number of HGV movements, the operation of forklift trucks, grain dryers and cooling fans, and relating to hours of construction. These account for the proposed operation as assessed by the appellant’s Noise Impact Assessment. Some differ slightly from the versions listed in the SoCG and I provided the parties with an opportunity to comment on the amended versions. I have taken their comments into account. Consequently, the condition relating to the grain dryers prevents their use between 2300 and 0800. Also, the condition relating to the number of HGV vehicles sets a limit of 10 a day. This is because, although the noise impact assessment acknowledges that there may be 1 or 2 additional miscellaneous deliveries per day, it distinguishes these from the grain deliveries by saying they are not expected to generate noise comparable with the grain deliveries. This suggests the noise impact assessment is based only on 10 HGVs per day and therefore the condition I have imposed reflects that. All these conditions are all necessary in order to protect the living conditions of nearby residential occupiers.

28. Some conditions require compliance prior to the development commencing. This is necessary so that the effects of the development are properly mitigated.

Conclusion

29. For the reasons given above, and taking account of all other considerations, I conclude that the appeal is allowed.

Andrew Owen
INSPECTOR

https://www.gov.uk/planning-inspectorate
Schedule of conditions

1) The development hereby permitted shall begin not later than three years from the date of this decision.


3) No development above slab level shall take place until details of all the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) The access layout as shown on approved plan 1709-75-PL01 shall be fully constructed and completed before the development is first used.

5) No development shall take place until details of the drainage of the proposed access have been submitted to and approved in writing by the local planning authority. The details shall demonstrate that the access falls and levels are such that no private water from the site drains across or onto the adopted public highway, and that it shall be constructed using a bound material for the first 15 metres from the boundary of the adopted highway into the site to prevent debris spreading onto the adopted public highway.

6) Prior to the first use of the development, full details of both hard and soft landscaping shall be submitted to and approved in writing by the local planning authority. The details shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection throughout the course of development. Soft landscaping works shall include planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedule of plants (noting species, plant sizes and proposed numbers/densities) and an implementation programme. All hard and soft landscaping works shall be carried out in accordance with the approved details and implementation programme.

7) If within a period of 10 years from the date of planting or replacement planting any tree is removed, uprooted, destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place in the next planting season.

8) Prior to the first use of the development a landscape management plan, covering a minimum of 10 years, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved.

9) Prior to the first use of the development, any boundary treatment shall be erected in accordance with details which have first been submitted to and approved in writing by the local planning authority. The details shall include a plan indicating the position, design, materials and type of boundary treatment to be erected. The boundary treatment shall thereafter be retained as approved.
10) No external lighting shall be used on site until a lighting scheme, to include details of any external lighting of the site such as street lighting, floodlighting, security lighting has been submitted to and approved in writing by the local planning authority. The scheme shall include a layout plan with beam orientation, full isolux contour maps and a schedule of equipment in the design (luminaire type, mounting height, aiming angles and luminaire profiles, angle of glare) and shall assess artificial light impact in accordance with the Institute of Lighting Engineers (2005) ‘Guidance Notes for the Reduction of obtrusive light’. The lighting scheme shall be installed, maintained and operated in accordance with the approved details.

11) Prior to the commencement of development a scheme of biodiversity enhancement, including a timescale for the enhancement works, shall be submitted to and agreed in writing by the local planning authority. The scheme shall be fully implemented as approved.

12) No development shall commence until a surface water drainage scheme based on sustainable drainage principles, has been submitted to and approve in writing by the local planning authority. The scheme shall be based upon the principles within the agreed Sustainable Drainage Statement prepared by Enzygo (ref SHF.1027.002.HY.R.001.A) dated December 2017. The drainage system should be designed such that there is no surcharge for a 1 in 30 event and no internal property flooding or flooding of third party land for in 1 in 100 year event + 40% allowance for climate change. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed.

13) No building hereby permitted shall be used until details of the maintenance and management of the foul and surface water drainage schemes have been submitted to and approved in writing by the local planning authority. The management and maintenance plan shall include details of land ownership, maintenance responsibilities, a description of the system, the identification of individual assets including boreholes, services and access requirements, details of routine and periodic maintenance activities. The schemes shall be implemented and thereafter managed and maintained in accordance with the approved details for the lifetime of the development.

14) No development shall take place until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority. The scheme shall include:
   i) the statement of significance and research objectives;
   ii) the programme and methodology of site investigation and recording and the nomination of a competent person or persons/organisation to undertake the agreed works;
   iii) the programme for post-investigation assessment and subsequent analysis, publication and dissemination, and deposition of resulting material;
   iv) a timetable for the investigation.
   The works agreed in the WSI shall then be carried out in accordance with the agreed timetable and shall be fully completed in accordance with the agreed scheme.
15) No laden or unladen HGVs shall be received at or dispatched from the site outside the hours of 0800 to 1700.

16) Collections from and deliveries to the site by HGV shall not exceed more than 10 on any day.

17) Any forklift trucks that are used on the site shall be fitted with white noise reversing alarms which shall be operational at all times.

18) The grain dryers hereby permitted shall be limited to use on only 10 days per calendar year and shall not be operated between the hours of 2300 and 0800.

19) Prior to the use of the development, the cooling fans on the northern elevation of building A shall be installed in accordance with the specification provided at attachment 2 of the letter from Cass Allen dated 25 February 2019 ref LR02-17264, and retained thereafter.

20) No construction machinery or plant shall be operated, and no construction related deliveries shall be taken at or dispatched from the site, except between 0800 and 1800 Monday to Friday, 0800 and 1300 Saturdays, and not at any time on Sundays or on Bank or Public Holidays.
APPEARANCES

FOR THE APPELLANT

David Walston Appellant
Jay Mehta Howes Percival Solicitors
Sophie Pain Turleys
Mark Flatman Liz Lake Associates

FOR THE LOCAL PLANNING AUTHORITY

Aaron Sands Senior Planning Officer
Karen Gingell Environmental Health Officer

INTERESTED PERSONS

Cllr Deborah Roberts Foxton ward
Lawrence Wragg Fowlmere Parish Council
Simon Buggey Foxton Parish Council
Rosalind Nuttall Birketts Solicitors representing Foxton & Fowlmere Parish Councils
Edward Long Birketts Solicitors representing Foxton & Fowlmere Parish Councils
Ron Stobart Local resident
Catherine Cairns Local resident
Roger Frost Local resident
Rosie Frost Local resident

DOCUMENTS SUBMITTED AT THE HEARING

Landscape and Visual Impact Assessment figures 1-5
Michael Mansell v Tonbridge and Malling BC [2017]EWCA Civ 1314
Goodman Logistics Development (UK) Ltd v SoS [2017] EWHC 947
Suggested wording for surface water treatment drainage condition
3D Visualisation drawing of the development provided by Roger Frost
Photographs provided by Catherine Cairns
Appeal decisions APP/W0530/W/17/3179152 and APP/W0530/W/18/3207525 provided by Rosalind Nuttall