The Planning Inspectorate

Appeal Decision

Site visit made on 23 January 2012

by David Kaiserman BA DipTP MRTPI

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

Decision date: 28 January 2013

Appeal Ref: APP/A3010/A/12/2183868
Crookford Hill, Elkesley, Retford DN22 8BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by R Plevin and Sons Ltd against the decision of Bassetlaw District Council.
- The application Ref 18/11/00013/V, dated 8 December 2011, was refused by notice dated 16 August 2012.
- The application sought planning permission to demolish existing buildings, and erect a replacement building for the processing of timber and to construct formal surface-water drainage, with associated ground works, without complying with conditions attached to planning permission Ref 18/03/00011/, dated 19 August 2004.
- The conditions in dispute are nos 2 and 11. Condition no 2 states that *The development hereby permitted shall be carried out only in accordance with the details and specifications shown on amended drawing no(s)1375/PL/400B and 1375/PL/200E.* The reason given for this condition was: *to ensure that the development takes the agreed form and thus results in a satisfactory form of development.*
- Condition no 11 states that *details of the areas to be used for open storage shall be submitted to and agreed in writing by the District Planning Authority before being brought into use. Open storage shall only take place within the agreed areas and shall not exceed 4 metres in height.* The reason given for this condition was: *to limit the visual impact of open storage in this countryside location.*

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of modifying the two conditions on the character and appearance of the countryside.

Reasons

3. Crookford Hill lies within open countryside west of the village of Elkesley, at the southern end of a narrow rural lane. The site is occupied by a major wood recycling and processing plant, there having been similar activities on the land for around 35 years (according to the appellants). In 2004, the Council granted planning permission in the terms set out above, and I am told that the development was

completed in 2007. Approved plan ref: 1375/PL/200E shows that a large part of the western section of the site was to be used for "processing and storage" of timber, and that an area to the north of this would be used for the parking and manoeuvring of 19 lorries. The precise extent of the open storage was to be the subject of subsequent approval by the Council, as set out in condition 11. This condition also limited the stacking height of the timber to 4m. I am not told whether or not details of the storage area were ever submitted to the Council, in furtherance of condition 11, but it is common ground between the parties that the material stacked on the site is, or has been, currently nearer 10m high, and that it has spread on to the area (or at least part of it) originally set aside for lorry parking and turning.

4. The only reason for refusal given by the Council is that the stack has an adverse impact on the character and appearance of the countryside, in conflict with policies DM1 and DM4 of the Core Strategy[1]. DM1 requires economic development in the countryside to be appropriate for its location and setting; DM4 makes a similar point in relation to all new development. I am in no doubt that, in this location, a 10m high stack of timber for recycling fails to comply with that requirement.

5. I have no information about how high the stack was at the time of my visit, although it was clearly well above the 4m authorised by the original permission. It has a very strong visual impact in the immediate vicinity of the site, and I consider its bulk and character to be incompatible with the pastoral landscape to the immediate north of the plant. In addition, it jars with the attractive amenity woodland which runs to the west and south, where it can be seen from the footbridge over the stream which runs through it. While the difference in levels and the set-back of the materials mean that its impact in that location is mitigated to some extent, it nevertheless remains an incongruous intrusion into what I am told is a popular recreation area.

6. The principal direction from which the stored materials are easily visible, however, is from the north. I accept that they can only be seen properly fairly close to the site boundary, and that many more distant views, such as those from the east-west section of Coal Pit Lane, are softened by mature landscape features and the fact that the land behind the site is at a higher level, providing a green backcloth; but the view from close to the access to the site and along the northern perimeter track is particularly stark.

7. This track is a dead-end for vehicular traffic, but forms part of a long-distance footpath, The Robin Hood Way. The stack's impact is mitigated to some extent by the fact that it is set back from the perimeter fence, and its lower elements are contained within a retaining wall. However, it was clear on the occasion of my visit that it encroaches closer to the perimeter of the site than was authorised by the approved plan, and I consider that this factor, combined with the significantly increased height, means that its present impact is much greater than would have been the case with the original scheme.

8. Moreover, it is clear from the appellants' statement that they regard their application as paving the way for removing any requirement to provide the lorry parking shown on plan 1375/PL/200E, meaning that the area of the stored timber

[1] full title: *Bassetlaw Core Strategy and Development Management Policies Development Plan Document*

would reach up to the northern perimeter of the site. This would clearly exacerbate the impact even further, encroaching into a zone which ought to represent a visual buffer between the open countryside and the industrial activity. I accept that the Council would retain the ability, under a modified condition 11, to consider the precise extent of open storage; but it seems to me reasonable to take the appellants' clear intentions into account in coming to a view about the present appeal.

9. Further east, the visual harm diminishes due to the rise in the level of the track and the fact that the storage area and associated transport elements of the operation occupy land which sits at a substantially lower level. In addition, between the perimeter fence and the track a row of laurel has been planted amongst the existing trees which, over time, should provide some increased sense of enclosure. I also recognise that the large industrial buildings which are part of the plant, immediately to the east of the open storage (in particular a very substantial green building, 11m high to the ridge) dominate many views and reinforce the industrial appearance of the site as a whole. While acknowledging the existence of these mitigating factors, however, I do not consider them to be sufficient to deal with the basic unneighbourliness of the stored materials when seen in their rural and recreational context.

10. I make the assumption that the visual impact of the plant was taken into account by the Council when allowing it to become established and modified. To that extent, therefore, I accept that any harm associated with the appeal scheme must be assessed against the background of what has already been authorised and exists on the ground. That having been said, I also consider it important to give substantial weight to the general incompatibility of the whole operation to its context. Given the very real possibility that a plant of this scale and character would be unlikely to receive planning permission if assessed against current policies for the area, I have concluded that a precautionary approach to the appeal scheme is justified. This leads me to the view that there should be a presumption against anything which materially exacerbates the harm associated with the enterprise as a whole.

11. I have noted the representations made against the scheme, including those on behalf of the Parish Council. Concerns are expressed about noise pollution and dust; impact on wildlife; the capacity of the roads around Elkesley safely to accommodate heavy traffic; the queuing of lorries entering the site (with a possible risk to riders and horses); an assertion that old buildings originally intended to be demolished have been refurbished instead; a range of site safety concerns; and allegations that other conditions have not been complied with.

12. Many of these comments deal with matters which go beyond my remit; but it seems to me that others have a clear relationship (or at least potentially so) with the proposal to increase the authorised capacity of the site for storing timber. For example, complaints about dust emission do not appear to me unrelated to the difficulties of controlling a 10m high stack as compared with one only 4m high: in its own terms, this does not cut across the Environment Agency's conclusions that the height is immaterial so long as appropriate management techniques are in place.

13. The more complex question of traffic generation is also a legitimate issue if the additional storage capacity of the site has led (or is capable of leading) to an

increase in the number of vehicle movements on the surrounding narrow lanes and/or to a change in their character.

14. The appellants have made the assertion that there would be no additional vehicle movements, and the Local Highway Authority raised no objection on purely highway safety grounds; but there is considerable uncertainty in my mind about the actual consequences of allowing the appeal, both in terms of highway safety and more qualitative matters, since there is no evidence to support the appellants' conclusion that the impact of allowing the appeal would, in fact, be neutral in those terms. In any event, it is not clear what the appellants are comparing here: I find it difficult to accept a suggestion that vehicle movements associated with a much higher storage pile (potentially also with a much greater surface area) would be no different from those which would have been generated by the original permission. Further evidence of the uncertainty is provided by the appellants themselves, who say that it is "difficult to determine how much material will be on site at any given time", while also stating that a variety of factors has led to an increasing demand for their services. This all adds weight to the need for adopting the precautionary approach which I have outlined.

15. I have taken into account other matters raised by the appellants, including policy support for sustainable rural development contained in the National Planning Policy Framework, and their brief comments about best practice for the management of sites such as this, (which I consider insufficient to justify the claim that the extra height is necessary in order to operate the site [efficiently and] safely). None of these factors outweighs the harm which I have described, and which has led me to dismiss the appeal.

David Kaiserman

INSPECTOR