

Ward: Hutton Rudby
Parish: Seamer

Committee Date : 24 November 2022

Officer dealing : Mr Craig Allison
Target Date: 12 September 2022
Date of Extension of Time (if agreed):

6

22/01668/MRC

**Variation of conditions attached to Planning Application Reference Number:
76/0609/FUL (2/128/36/PA)- construction of an agricultural general purpose
storage building to allow use for the housing of livestock**

At: Land and buildings at Tanton Road, Seamer
For: Mr M Nichols

The proposal is presented to Planning Committee due to significant public interest

1.0 Site, context and proposal

- 1.1 The application site sits to the east of the village of Seamer and is located outside the edge of the village. The existing building on the site is set back from Tanton Road. The building benefits from an existing vehicular access with turning and manoeuvring provision. The site is separated from the village and residential properties with agricultural land wrapping around the existing building.
- 1.2 The site is bounded by an existing mature hedgerow to the north which screens it from the highway along Tanton Road. Open agricultural land wraps around the site and sites along the western and southern boundaries of the site. The eastern portion of the site has an existing access and turning area with open agricultural fields located beyond the eastern boundary of the site. The site is generally of flat topography.
- 1.3 The applicant is seeking permission to remove condition 3 of planning reference 76/0609/FUL which states the following:

"The building hereby approved shall be used only for the bulk of storage of feedstuffs and fertilisers in connection with a farm haulage business and for no other use within Class X of the Town and Country Planning (Use Classes) Order 1972 without prior consent of the Local Planning Authority."

- 1.4 The purpose of removing the condition is in order for the applicant to use the building to house livestock, in particular pigs.

2.0 Relevant planning history

- 2.1 76/0609/FUL - Construction of an agricultural general purpose storage building - Approved 28 October 1976
- 2.2 21/00965/APN - Application to determine if prior approval is required for the construction of a general purpose agricultural building to store farmyard manure undercover - Prior Approval not required 8 May 2021.

- 2.3 21/01847/MRC - Variation of conditions attached to Application Reference Number: 76/0609/FUL-O.S. Field 0005 (PT), Tanton Road, Seamer - construction of an agricultural general purpose Storage Building – Refused on the 14 January 2022 for the following reasons:

“The existing agricultural building is located approximately 100 metres away from existing residential properties. It is considered that due to the close proximity of the site to nearby residential properties the proposal would be harmful to the residential amenity of occupiers of these properties by virtue of noise, odour and flies that would result from the proposed housing of livestock. It is therefore considered that the proposed development is contrary to Policy DP1 of the Development Management Policies DPD.

It is considered that the proposed use of the building to house livestock would require the access into the site to be used on a more frequent basis with wagons entering the site to load and unload animals. However, no details have been provided for consideration to demonstrate that vehicles could leave the site in a forward direction. Therefore the Local Planning Authority cannot be satisfied that the proposal meets the requirements of Policies DP3 and DP4 of the Development Management Policies DPD and therefore the proposal is considered to be contrary to these Local Plan Policies.”

3.0 Relevant planning policies

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.
- 3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;

Local Plan Policy S1 – Sustainable Development Principles
Local Plan Policy S5 – Development in the Countryside
Local Plan Policy EG7 – Businesses in Rural Areas
Local Plan Policy E1 – Design
Local Plan Policy E2 – Amenity
Local Plan Policy E7 – Hambleton’s Landscapes

4.0 Consultations

- 4.1 Seamer Parish Council have commented on the application and have expressed mixed views on the proposal. The Parish Council note that support is given to the local farmer who is trying to develop an existing business using an existing building. However, on the other hand the building is only a hundred metres or so from nearest residential properties and does cause odour concerns to local residents. Therefore, the Parish Council are neither objecting or supporting the application and have left the Local Planning Authority to consider all the facts to determine if the application is acceptable or not.

- 4.2 North Yorkshire County Council (Highways) have stated that given the content in the planning statement in relation to traffic movements a highway objection would be difficult to sustain and as such there are no objections to this application. The details provided show that the existing access will be improved and suitable conditions are therefore proposed.
- 4.3 Environmental Health have considered the potential impact on amenity and the likelihood of the development to cause a nuisance on existing residential properties. This application is a further request of planning application ref. 21/01847/ MRC which was previously consulted on by the Environmental Health Service with a recommendation of refusal. Previous comments are relevant for this application, though it is acknowledged that additional documentation has been provided, including an odour assessment. Through the assessment and when considering the current environment which surrounds Seamer village, it is essential to prevent any further deterioration to the amenity from accumulative farming impact. The Environmental Health Service is not able to support the application and refusal is recommended.
- 4.4 Natural England have not provided any additional comments in regard to the application, specifically in regard to Nutrient Neutrality.
- 4.5 No comments have been received from Northumbrian Water.
- 4.6 A site notice was posted and neighbours have been consulted on the application. Six letters of objection have been received in regard to this application with their comments summarised below:
- The applicant previously applied for consent to house livestock in the building and this was refused by the Council. Following the refusal the applicant proceeded to house livestock in the building regardless and subsequently have endured noise, odour, the extended amount of flies, the extra traffic and the obstruction of vehicles on the highway.
 - The Odour report provided states there is only 11% wind blowing towards residential properties, however this has not taken into consideration the heatwave and warm winds which result in an unpleasant experience
 - The existing road network may not be able to support heavy goods vehicles coming and going from the site with livestock
 - The proposal will produce very large quantities of slurry, thus emitting ammonia and subsequent nitrous oxide odours significantly impacting upon health within the village
 - Neighbouring residential properties are unable to open their windows or enjoy their outdoor space in the summer due to the smell from the livestock in the buildings.
- 4.7 Four letters, neither objecting nor supporting the application have been received in regard to this application with their comments summarised below:
- The applicant is moving the piglets from a building within the village of Seamer to a building on the outskirts and therefore will allay some of the concerns raised in terms of odour.
- 4.8 Nine letters of support have been received in regard to this application with their comments summarised below:

- The applicant has undertaken a number of improvements such as tidying up the yard and planting wild flowers on the public footpath.
- The current smell of pig farming is not intrusive to their lives and is only evident on infrequent occasions.
- It is clear that the applicant is trying to future proof his business in the most environmentally friendly way.
- The UK Farming contributes £120 billion to the Countries economy and almost 64% of our food is produced by British Farmers, therefore support should be given to the farming community to enable it to develop further and ensure the UK Farming Industry survives.
- Food security is a real worry in the UK and the support of young farmers who are striving to make their businesses successful is vital. The applicant intends to farm in an economical and environmentally friendly way and importantly the applicant intends to use natural manure by which, reduces chemical and artificial nitrogen use.

5.0 Analysis

- 5.1 The main issues to consider are; the principle of development, the impact of the development on the character and appearance of the area; the impact of the development on neighbouring residential amenity; the impact of the development on highway safety; and the impact of the development in nutrient neutrality.

Principle of development

- 5.2 In determining application's, the decisions should be taken in accordance with the development plan unless there are material considerations that indicate otherwise. The development plan for Hambleton is the Hambleton Local Plan (Adopted February 2022), of which Policy S1 of the Local Plan states the Council will seek to ensure that development makes a positive contribution towards sustainability of communities, enhances the environment and adapts to am mitigates the impact of climate change.
- 5.3 The site is located outside of any defined settlement and therefore Policy S5 is applicable. The Policy states that development in the countryside will only be supported where it is in accordance with national planning policy or other policies of the development plan and would not harm the character, appearance and environmental qualities of the area in which it is located.
- 5.4 Policy EG7 of the Council's Local Plan is to promote a vibrant rural economy within the district's extensive countryside to support businesses with a genuine need to be located in the countryside to assist agricultural businesses to maintain their viability and to assist in other forms of development including farm diversification along with the Council's approach to proposals for other businesses in the countryside." The Policy goes further and states employment generating development will only be supported in locations outside the main built form of a defined settlement in the settlement hierarchy where it involves:

e. It is demonstrated that it is reasonably necessary for the purposes of agriculture within that unit and cannot be met by existing buildings within that unit or in the vicinity and the scale of the building is commensurate with its proposed use;

- f. the building is sited so that it is physically and functionally related with existing buildings associated with the farm unit unless there is a demonstrable need for a more isolated location;
- g. the building would be well integrated with its surroundings, being of appropriate location, scale, design and materials and with appropriate landscaping so as not to harm the character, appearance and amenity of the area; and
- h. the approach roads and access to the site have the capacity to cater for the type and levels of traffic likely to be generated by the development

Promotion of sustainable forms of agriculture which includes environmentally sensitive organic and locally distinctive food production together with its processing, marketing and retailing will be encouraged as part of a thriving and diverse rural economy.

- 5.5 The proposed use of an agricultural building to be used for the housing of livestock is considered to be in accordance with the Council's policies as it would result in the diversification of an agricultural business and will help support a sustainable rural economy. Furthermore, it would re-use an existing building without any substantial alteration. However, the other material planning considerations in regard to character of the area, impact on amenity and highway safety is considered in further detail within the report. It is therefore considered in principle the removal of condition three is acceptable subject to other material planning considerations.

The impact on the character of the surrounding area

- 5.6 Policy E1 of the Local Plan states that all developments should be of a high quality, integrating successfully with, its surroundings in terms of form and function, reinforcing local distinctiveness and help to create a strong sense of place. All development should have a regard to relevant national and local policies, advice or guidance that promotes high quality design, details the quality or character of the area or describes how the area should develop in the future.
- 5.7 The National Planning Policy Framework Planning supports this approach and, at paragraph 134, states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 5.8 Policy E7 of the Local Plan states that the Council will protect and enhance the distinctive landscapes of the district. A proposal will be supported where it takes into consideration the degree of openness and special characteristics of Hambleton's landscapes; and takes account of areas that have been identified as being particularly sensitive to/or sensitive for certain forms of development.
- 5.9 The building is an existing building and no proposed alterations are sought to the building. In turn there would be no impact on the character and appearance of the area and thus the proposal is in accordance with the Council's Local Plan Policies.

Impact on residential amenity

- 5.10 Policy E2 of the Council's Local Plan states that all proposals will be expected to provide and maintain a high standard of amenity for all users and occupiers including both future occupants and users of the proposed development as well as

existing occupants and user of neighbouring land and buildings. A proposal must ensure that there are no significant adverse impacts in terms of noise, odour and obtrusive light pollution. This is further re-iterated within Policy EG7 where it states that such proposals should seek to reuse existing buildings wherever possible and have regard to the amenity and impacts on neighbouring uses.

- 5.11 As part of the application the Council sought further information from the applicant in regards to the amount of livestock on the land. The applicant has stated that the building would be used to house pigs from four weeks old to 12/13 weeks with approximately 800 pigs per batch. All pigs would be housed in the building and there would be a full washout and disinfect after each batch. There would be no slurry on site and the animals would be bedded on straw. All feed would be stored in the building in bulk feeders so no need for feed bins outside. All livestock would be unloaded and loaded within the shed and all fallen stock would be locked in a sealed unit and suitably collected. As part of the application an odour assessment has been submitted which has been reviewed by the Council's Environmental Health team.
- 5.12 The Environmental Health Service has advised that every year they investigate nuisance complaints about odour, flies, and noise from residents living in properties next to farming environments. The impact from noise, odour and flies is subjective and occupants will 'put up' with a lower level of amenity until conditions get to a point where they are unable to tolerate it any further and they they will make a complaint. As such, the complaints the Council investigate are often just the tip of an iceberg. There is currently a lack of regulation governing farming practices and good farming practice is subjective. This coupled with an inability to control a farming environment, for example weather conditions, can produce situations in which the amenity can be fine one day but poor the next. As such the impact from agriculture can be sporadic, short lived or seasonal. Old MAFF (Ministry of Agriculture, Fisheries and Food) suggested that smells from housed livestock and manure are usually strong up to 100 meters away. They further suggest that a distance of 400 meters (buffer zone) between the site and the nearest dwelling house would be advisable to prevent odour problems.
- 5.13 A farmer who applies poor management practices and struggles with changing environmental conditions, at a distance of 400 meters would have minimal impact on residential amenity. A similar distance is also referred to in Environment Agency (EA) Guidance for intensive pig & poultry farms through the Environmental Permitting Regulations 2010. In such cases, relevant sites must meet specific permit conditions based on Best Available Techniques (BATs) for avoiding or minimising all types of emissions. Where an intensive farm is proposed within 400m of an existing or future sensitive receptor, further considering would be given to mitigation measures to control emissions to water, air and land. This could include a detailed scheme for extract ventilation; abatement technology for odour and noise control or a slurry spreading and manure management plan. If problems occur and complaints are received these will fall under regulatory controls within the permitting system and improvements or sanctions can be applied to secure improvements. These regulatory controls can only be applied to sites which house 2,000 production pigs. This would not be applicable to the applicant's proposed site and therefore this additional regulatory control is unavailable.

- 5.14 It is considered that this application cannot be viewed in isolation and should be considered within the wider environment and level of nuisance that already prevails in the village of Seamer. Over the last 4 / 5 years, the village of Seamer has suffered from regular fly infestations. Although Environmental Health has investigated complaints to try to identify the source of the problem, due to the high number of agricultural farms / intensive rearing sites that surround the village, part of the problem is created from an accumulative effect of having these operational sites so close together which has a detrimental impact on amenity.
- 5.15 Over the last few years, the Environmental health team have also received complaints of odour coming from an existing pig production farm within the village. Even in the colder months of November / December, complaints of odour continued to be received. Concerns are raised that if the application is approved it will add to the cumulative impact on the village.
- 5.16 With regards to the specifics of this application, sensitive properties are approximately 100 meters away from the application site. It is considered that the site will be harmful to the amenity of occupiers by virtue of odour, noise, and flies. This has been raised in a number of local objections to the application. Noise complaints are particularly associated with the fattening of pigs and once pigs start reaching levels of sexual maturity and noise from screeching can be heard during the day or night without the correct controls in place. Impact during the night will be greater due to reduced background noise levels which can get as low as 20/25dB L90 within rural areas. It is considered that insufficient information has been provided within the application to show how this potential impact will be controlled or mitigated.
- 5.17 The building structure itself is original to the planning permission obtained in 1976 and will be used in its current form to house pigs from 4 weeks old to 12/13 weeks old on a 9-week cycle (based on the applicant's existing activities). The building is not fully enclosed to contain odours and relies on natural ventilation of opening large parts of the facades. This application would be outside the scope of Environmental Agency permit regulations and there are no guaranteed regulatory controls that can be applied to the working practices of the farm. As such, the buffer zone of 400 meters becomes more important because it provides the necessary space between farm practices and sensitive receptors.
- 5.18 Whilst the applicant has sought an odour assessment for this application, this has identified that for 11% of the time the wind direction will be in the direction of the residential properties to the South and West of the site and these properties could be affected by odours from the site. There is always scope for meteorological conditions to change which are beyond the control of the applicant.
- 5.19 In terms of the noise and the presence of flies no further information or detail has been provided by the applicant in order to provide a form of mitigation associated with the development.
- 5.20 When considering the current environment which surrounds Seamer village, it is essential to prevent any further deterioration to the amenity from accumulative farming impact. Therefore, it is considered that the development is contrary to

Policy EG7 and E2 of the Council's Local Plan by virtue of its impact on local residential amenity.

Impact on highway safety

- 5.21 Policy IC2 of the Hambleton Local Plan states the Council will work with other authorities and transport providers to secure a safe and efficient transport system that supports a sustainable pattern of development that is accessible to all. A proposal will only be supported where it is demonstrated that highway safety would not be compromised, and safe physical access can be provided to the proposed development from the footpath and highway networks.
- 5.22 The intended use would require one lorry to deliver the piglets and a further two lorries to collect the pigs nine weeks later. As the current use of the building has no restrictions over the amount of traffic entering and leaving the site, the proposed use would generate no more traffic or size of vehicles than is currently allowed by the existing lawful use. Furthermore, as part of the application a traffic swept analysis has been provided which shows that vehicles can leave the site in a forward direction. North Yorkshire County Council (Highways) have commented on the application and raised no objection subject to a suitable condition being imposed to ensure that the access layout is implemented as per the approved plans.

Nutrient neutrality

- 5.23 The site falls within the Tees River catchment and is caught by the issues of nutrient pollution resulting from the impact of nitrogen on the River Tees and Cleveland Coast Special Protection Area. The identified cause of the eutrophication of the River Tees is excess nitrogen that is finding its way into the River Tees catchment from agriculture, surface water run-off and sewage works. At this time new development must not result in any additional nitrogen being emitted into the catchment.
- 5.24 In order to be able to approve the development, it must be satisfied that the development is neutral in its nitrogen impact and the development assessed against the Habitat's Regulations.
- 5.25 In this case the protected site is the Tees Ramsar and SPA site and Natural England has specifically cited the issue of nitrogen impacting of the site and causing growth of blanket weed across the mudflats, which is impacting on plant and wildlife as a result.
- 5.26 The proposed development could impact by way of introducing additional nitrogen to the catchment and as such is considered to fall within scope. On this basis it must be demonstrated that either the proposal results in a net 0 nitrogen impact or that sufficient mitigation can be put in place to offset the net additional nitrogen from the site.
- 5.27 The applicant is a fully certified fertiliser adviser and has advised that there would be no increase in Nitrogen leaching from housing the extra pigs at Manor Farm. The number of pigs housed is 400 more than what the farm has traditionally housed due to the applicant reducing the numbers kept in the current building at Manor Farm yard by a third since mid 2021.

- 5.28 The applicant advises that the muck sample shows that the type of pig muck being used is heavily straw based which means that the readily available N (The leachable N) is less than 1% of the total N which is 7.91kg/T. Less than 1% of 7.91 is very low and it is all in an organic form that will be slow release over the following growing season as soil bacteria, plants roots and biology break it down so the crops can use it. This will also increase soil organic carbon levels which is critical in the long run to help climate change.
- 5.29 the applicant has also advised that the winter wheat crop grown in manor farm field received an application of manure the previous year whilst growing cover crop. This was suggested to received 290kg/Ha of artificial N fertiliser. The applicants have applied 169kg of Nitrogen fertiliser and achieved adequate yields, again down to the benefits of the organic manure supplying stable organic N and soil conditioning properties.
- 5.30 This saving in use of artificial fertiliser assists with climate change due the reduction in fertiliser produced in the initial instance, reduced haulage fuel use, and a reduction in readily available leachable nitrogen that may only be 60-80% utilised. The applicants are reducing the Nitrogen pollution risk rather than increasing it.
- 5.31 The muck produced is stored in a covered building that was part of a government funded scheme to reduce nutrient leaching and soil finding its way into road drains when fields are wet. Given that the muck is stored within the building until used on the fields there is no risk of nutrients getting into water courses and increasing eutrophication.
- 5.32 The phosphate and potassium within the muck is needed to replace the offtake of straw and grain across the farm over a number of years. The muck is used in rotation and is generally applied to where the straw came from the previous year. Phosphate is very immobile within the soil and will not leach. Phosphate pollution is caused by soil finding its way in solid form directly into rivers. This is usually by soil erosion or machines dragging soil onto the road or yards. The use of pig muck on the soil would not increase this risk as Manor Farm is not directly next to any open water courses and the use of the muck over a period of years would also make the soil more stable with organic matter and less likely to leave the fields on machinery when wet. It is therefore considered that there is a net 0 nitrogen impact of the development on the surrounding area. Furthermore Natural England have been consulted on the application and the information provided and have provided no additional comments. Therefore, it is considered nutrient neutrality is achieved in this instance.

Planning balance

- 5.33 The applicant has sought planning permission for the removal of condition three from planning reference 76/00609/FUL to enable livestock to be housed within a previously approved agricultural storage building. It is considered that the proposed use of the building for the housing of livestock would diversify the agricultural business and would help support an existing agricultural enterprise. However, it is considered that the housing of livestock in the building within 100 metres of residential properties, in particular in the absence of a management plan setting out the control of odour and noise, causes significant harm to nearby residential

amenity. It is therefore considered that the development is contrary to the Council's Local Plan and the overarching principles of the National Planning Policy Framework.

6.0 Recommendation

That subject to any outstanding consultations the application be **REFUSED** for the following reason(s):

1. The existing agricultural building is located approximately 100 metres away from existing residential properties. It is considered that due to the close proximity of the site to nearby residential properties that the proposal would be harmful to the residential amenity of occupiers of these properties by virtue of noise, odour and flies that would result from the proposed housing of livestock. It is therefore considered that the proposed development is contrary to Policies EG7 and E2 of the Council's Local Plan.