

Item No: 4

Reference: B/10/00481/ROC

Parish: WHERSTEAD

Location: Pannington Hall Farm, Pannington Hall Lane.

Proposal: Application under Section 73 of the Town and Country Planning Act (1990) to vary Conditions 02 and 04 attached to P. P. B/07/00337/FUL - Condition 02 - to extend opening hours from 5.00pm to 11.00pm and use beyond 5.00pm for private pre-booked functions only. Condition 04 - Provision of customer covers outside the confines of the building.

Applicant: The Essex Pig Company Ltd

Case Officer: Lynda Bacon

Date for Determination: 16 June 2010

A Panel of Members inspected the site on 14 July 2010.

RECOMMENDATION: Refuse Planning Permission

THE SITE

1. The application site comprises a range of former agricultural buildings and associated land, located at the end of Pannington Hall Lane, which is a single width unclassified road. The site surrounds Pannington Hall, a Grade II listed farm house and amounts to approximately 0.35 hectares of Grade 3 agricultural land amongst some 60 hectares (150 acres) of farm/woodland, rented by the applicant from the landowner on a tenancy that excludes the farmhouse. The site lies outside of the defined settlement boundary of Wherstead and the Ipswich fringe, and lies adjacent to but outside of the Dodnash Special Landscape Area.
2. Situated to the south of the application site is Pannington Hall Cottage, a detached dwelling situated on lower ground that is accessed via an unmade track (bridleway) off of Pannington Hall Lane. The southern extent of the application site is defined by this bridleway that runs westward from Pannington Hall Cottage across to the C453 - Wherstead to Belstead road, which is a classified road subject to a 60 mph speed limit that links the A137 Ipswich to Manningtree road with the village of Belstead to the North West. Footpath No.34 is adjacent to the western extent of the application site.

THE PROPOSAL

3. The application seeks to alter conditions nos. 2 and 4 of planning permission B/07/00337/FUL, which was granted in June 2007 for the change of use of the middle section of the main barn to a Cafe with toilet facilities. This permission was implemented before it expired on 14 June 2010. Work is proceeding on site to facilitate the café use but the café is not yet operating.
4. Condition 2 restricts the hours the cafe can open to between 9am and 5pm and Condition 4 precludes customer covers outside the building so that all cafe tables should be inside the barn, both conditions were imposed to retain control over the development in the interests of amenity.

5. The application submitted seeks to vary Condition 2 and to remove Condition 4. A variation of Condition 2 is sought to allow the cafe use to operate beyond the hours specified and to open until 11pm every night for private pre-booked functions only. The application as initially submitted sought permission to open till 1am every night but the proposed hours of opening have subsequently been amended to 11pm at the applicants request. The application also seeks to remove Condition 4 to thereby allow the provision of outdoor tables (covers) on adjacent land to the north of the main barn, which also could be used to 11pm each night and an indicative outdoor seating plan has been submitted that provides for 128 outdoor covers.
6. The applicant has been asked to provide an Ordnance Survey plan to show the entire holding over which the applicant's have control and also to clarify what a 'private pre-booked function' entails. Whether live or amplified music will be played within or outside the café has been questioned and any responses received will be reported verbally at the meeting.
7. The application documents can be viewed on line via the planning pages on the District Council's website.

RELEVANT HISTORY

8. 2005 – Erection of building for new shop area and tea room, new vehicular access and car park for 120 cars and monthly indoor farmers markets withdrawn prior to determination. Application B/05/00795 refers.
9. 2005 – Temporary planning permission granted for the retention of 2 mobile homes for use by stockmen. Application B/04/01825 refers and expired on 24/10/2008.
10. 2006 – Full planning permission granted for the change of use of part of the barn to café and kitchen. Application B/06/00041 refers. The application related to the rear section of the barn (SW end) and expired on 23 June 2009; it was not implemented beforehand.
11. 2006 – Full planning permission granted for the retention of a single-storey rear extension to shop for use as production area serving the shop, the erection of a single-storey rear extension for use as production area serving the shop, the change of use of a barn from agricultural store to rural classrooms and the erection of external staircase, the continued use of barns to accommodate monthly farmers markets, the retention of vehicular access and egress track onto C453 and construction of 120 space car park and the retention of a detached feed storage building and detached gazebo. Application B/06/464 refers.
12. 2006 – Temporary planning permission granted for the erection of a polytunnel for agricultural use (including housing livestock) for a temporary three year period. Application B/06/01541 refers and expired on 5 February 2010.
13. 2007 – Full planning permission was granted on 14 June 2007 for the change of use of the middle section of the barn to a Cafe with toilet facilities (to be used in conjunction with café use approved under ref B/06/00041). Work commenced on site before the permission expired on 14 June 2010 and therefore this permission has been implemented although the café is not yet operational. Application B/07/00337 refers.
14. 2007 – Full planning permission granted for the retention of a log cabin to be used as an office. Application B/07/00389 refers.

15. 2010 – Planning permission refused for the erection of toilet accommodation to be used ancillary to the cafeteria (approved under P.P. B/07/00337). Application B/10/00482 refers.
16. 2010 – Current application submitted for the erection of toilet accommodation to be used ancillary to the cafeteria (approved under P.P. B/07/00337). Application B/10/00813 refers.
17. 2010 – Application submitted for the part change of use of agricultural barn to restaurant and kitchen (A3). Insertion of glazed screen. Application B/10/00752 refers. It is currently invalid.

NATIONAL GUIDANCE

18. **PPS1** – Delivering Sustainable Development
19. **PPS4** – Planning for Sustainable Economic Growth
20. **PPS5** – Planning for the Historic Environment
21. **PPS7** - Sustainable Development in Rural Areas
22. **PPG13** – Transport

PLANNING POLICIES

23. The Development Plan comprises saved policies in the Suffolk Structure Plan, adopted 2001, and saved policies in the Babergh Local Plan (Alteration No. 2) adopted 2006. The following policies are relevant to this proposal:

Babergh Local Plan (Alteration No.2) 2006

- **CR01** Countryside
- **CR18** Conversion of underused buildings in the countryside
- **TP15** Parking
- **CN06** Listed buildings.
- **SP03** Substantial trip generating development outside town centres.
- **EM20** Expansion of existing employment uses.

The relevant policies can be viewed on line. Please see Page 3 for details.

CONSULTATIONS

24. PC - In respect of the initial application to extend the opening hours to 1am the Parish Council object for the following reasons:
 - There are no indications given of the type of events and how often they would be held, the PC is therefore concerned that there could be considerable nuisance caused to local residents living nearby, this could be from music playing late into the night and from people coming and going.
 - The entrance to Jimmy's Farm is down a narrow lane that passes residential properties and these people are likely to be disturbed by late night vehicle movements.

- We also have concern that the site is moving further and further from its original concept of 'Jimmy's Farm' with more events taking place outside of normal working hours.
25. In respect of the amended opening hours to 11pm, further comments have not been received from the Parish Council at the time of writing but will be reported verbally at the meeting if available.
 26. LHA – Do not wish to restrict the removal of the conditions as applied for.
 27. SWT – Not received.
 28. NABE (Environmental Health) – The application includes proposals for the playing of live and recorded music both inside and outside. This includes music played at functions such as weddings. However, apart from proposed timings and routing of vehicular traffic, no control measures (physical or operational) have been proposed. As the application stands, there would be no limit on the frequency and scale of functions, which could theoretically occur every day of the year. No information has been submitted to demonstrate that music played inside or outside would not cause a nuisance to neighbouring properties – the only reference being a statement claiming that “no music or noise should be audible at houses in the vicinity.
 29. Amplified music played at a “typical” wedding reception or by a live band could easily reach 95-100 decibels, which if played in the open air would be likely to cause disturbance, particularly if permitted to occur on a regular basis. The barn building is also unlikely to afford the same degree of sound insulation as modern construction materials and techniques – indeed, the building may not even be capable of being sufficiently sound-proofed without major and cost-prohibitive works.
 30. There is therefore considerable potential for nuisance from noise to the nearest noise sensitive premises:
 - Pannington Hall, the boundary of which is just five or so metres from the barn and the façade of which is approximately 30m away.
 - Pannington Hall Cottage, the boundary of which is approximately 110m from the barn and the façade of which is approximately 145m away.
 31. With regard to Pannington Hall, it is my opinion that because of the extremely close proximity, unreasonable disturbance/nuisance to any future occupants from music played at functions (internally or externally) would be likely, even with strict noise controls in place. I appreciate that Pannington Hall is currently unoccupied, but this may not always be the case, particularly with current initiatives to bring disused properties back into use.
 32. With regard to Pannington Hall Cottage, reliance on separation distance alone is unlikely to be sufficient to adequately control noise from amplified music played outside. No information or data has been submitted to demonstrate that amplified music played inside the barn (e.g. from a disco or band) would not cause nuisance to residents of the cottage.
 33. **For these reasons I would strongly recommend that the application to allow the playing of amplified music at functions should be refused.**

34. I would not object to the playing of “incidental” background music inside the barn as part of a typical restaurant operation provided that a condition was imposed requiring all doors and windows to be kept closed. There may also be scope to permit some form of unamplified music to be played in the Herb Garden, depending on the scale and frequency. This could be controlled through conditions.

REPRESENTATIONS

35. To date five letters of representation have been received, four are letters of objections and one is of support.
36. The objections have been received from the occupiers of three properties along Pannington Hall Lane and the issues raised are summarised as follows:
- The proposal will increase late night vehicular traffic, particularly into the early hours as customers leave functions followed later by staff along a single track lane that passes within 10 metres of the bedroom window. At present, virtually no vehicles use the road as the lane is a cul-de-sac serving only 5 homes. The farm is currently restricted to public trading until 5pm and to increase public access until 11pm would have a serious adverse impact on quality of life and will be impossible to enforce should the applicant not adhere to the restriction, as the original proposal was to open to 1am.
 - Road access to and from Pannington Hall Lane is via the A137 and the junction is sited within 50 metres of a ‘blind’ bend and subject to the National 60mph limit. There have been numerous road traffic incidents at this junction involving traffic entering Pannington Hall Lane.
 - At present Pannington Hall Farm has a private roadway connecting the farm with Harkstead Lane, if all farm traffic was restricted to this route there would be little impact and as such the objection could be overcome.
 - Strongly object to noise levels from music played at the site, which is approximately 100 metres from Pannington Hall Cottage that would cause a nuisance and disturb the peace. Noise would be exacerbated in the summer when windows and doors are open. Noise is generated as voices get louder when alcohol is consumed and car doors are slammed as people arrive and depart. The noise of traffic in the lane adjacent to the house would cause a continual disturbance throughout the evening and into the early hours.
 - The Lane is narrow and has become dangerous to walk or cycle along owing to the weight of traffic, the speed at which staff, delivery vehicles and some customers approach the farm.
 - Noise and light disturbance caused at what should be a peaceful time of night, living room and bedroom windows are only feet away from the lane and early risers are early to bed.
 - When does a farm stop being a farm as it seems to have more to do with events than actual farming?
37. The letter of support is from the occupier of a neighbouring farm and states that local enterprise should be supported particularly when it will create employment. Also confident that late night opening of the restaurant will not cause any inconvenience to Bluegates Farm.

PLANNING CONSIDERATIONS

38. The issues central to the determination of this application are:-

- i) **Policy and whether the proposal represents ‘sustainable development’**
- ii) **Impact upon residential amenity**
- iii) **Impact upon highway safety**
- iv) **Impact upon the character and setting of the listed building**
- v) **Precedence**

Policy and whether the proposal is ‘sustainable development’

39. Government planning policies relating to sustainable development are reported within Planning Policy Guidance Notes (PPG's) and Statements (PPS's). PPS1 sets out the Government's general objectives and strategies for achieving sustainable development through the planning system. It states sustainable development is the core principle underpinning planning. At the heart of sustainable development is the simple idea of ensuring a better quality of life for everyone, now and for future generations.
40. The site is located within the countryside wherein the main governing planning policies are PPS7 (Sustainable Development in Rural Areas), PPS4 (Planning for Sustainable Economic Growth) and policies CR01, CR18 and SP03 of the Babergh Local Plan.
41. A core principle of PPS7 is that sustainable development should underpin land use planning and decisions on development proposals should be based on sustainable development
42. principles, ensuring an integrated approach to the consideration of social inclusion, recognising the needs of everyone; effective protection and enhancement of the environment; prudent use of natural resources; and maintaining high and stable levels of economic growth and employment.
43. Furthermore, all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness. A supportive approach to farm diversification should not result in excessive expansion and encroachment of building development into the countryside. Planning authorities should have regard to the amenity of any nearby residents or other rural businesses that may be adversely affected by new types of on-farm development.
44. The aim and purpose of Local Plan Policy CR01 is to protect the landscape character and quality of the countryside by restricting development to that which is essential for the efficient operation of agriculture, forestry and horticulture and outdoor recreation.
45. PPS4 makes specific reference to planning for economic growth in rural areas and stated objectives are to deliver more sustainable patterns of development, to reduce the need to travel, especially by car and to raise the quality of life and the environment in rural areas whilst continuing to protect the open countryside for the benefit of all. Para 7 identifies the types of economic development that are defined as town centre uses and restaurants are defined as a town centre use. Such uses should be directed to town centre locations – in this instance Ipswich or the surrounding villages.

46. PPS4 Paragraph EC4.2 requires local planning authorities to manage the evening and night-time economy in town centres and Para EC6.2a states that 'in rural areas, local planning authorities should... strictly control economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans'. The aim and purpose of this guidance is to direct such uses to town/village centres and allocated sites in order to protect the countryside from intrusive or inappropriate unjustified development. The application site is not within a defined village or town built up area and it is not an allocated employment site and is therefore an inappropriate location for an evening restaurant use.
47. Policy EC12 of PPS4 sets out the national guidance for converting rural buildings for economic development and offers support for the conversion of buildings for economic development, particularly those adjacent or closely related to towns or villages, where the benefits outweigh the harm. Policy EC14 establishes the approach towards the creation of new town centre floor space outside of town centres and sets out the criteria by which a sequential assessment is required for main town centre uses that are not ancillary to other uses and are not in an existing centre and are not in accordance with an up to date development plan. It could be argued that as the extent of covers proposed to be provided externally appears to exceed the covers that could be accommodated within the mid section of the barn, as per the plans approved under B/07/00337, the external restaurant is not ancillary to the approved café use and therefore requires a sequential assessment to be undertaken and such an assessment has not been submitted. Officers are of the opinion that it would be difficult to demonstrate that there is no alternative in-centre location which is sequentially better located for the restaurant. Para EC17.1 confirms that planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where the applicant has not demonstrated compliance with the requirements of the sequential approach or where there is clear evidence that the proposal is likely to lead to significant adverse impacts on defined categories. The provision of this use outside of a town centre has not been justified by the applicant and as such it is considered to be an inappropriate use in this location that would harm town centre vitality and viability. This conclusion compounds the inappropriateness of this location for the proposed development.
48. Local Plan Policy SP03 concerns retail and other substantial trip generating development outside town centres and supports the main objectives for the delivery of sustainable development established by PPS4 and PPS7.
49. Local Plan Policy CR18 is the lead policy for, and sets out criteria against which, proposals for the conversion/re-use of redundant or under-used buildings in the countryside for business, recreational or community uses are considered. It states that these will be considered favourably providing certain criteria are not adversely affected. The criteria listed include the impact on residential amenity and the location of the building relative to public transport infrastructure, urban centres and whether the use represents sustainable development.
50. The café use that has been approved but yet to become operational was granted planning permission in 2007 as it was considered to support, and be ancillary to, the existing farm enterprise at the site whereby visitors enjoying the farming experience could also seek refreshment as part of their overall visit. Furthermore, the opening times of the café as approved coincide with the farm/shop opening times and as such, will not be used outside normal farm opening hours. The approved café is not therefore an independent trip generating use in its own right.

51. The proposed additional use of the approved cafe as an evening restaurant is clearly an additional use that will not be available to the public visiting the farm attraction during the day and is therefore a substantial trip generating use, which should ideally (and in accordance with PPS4) be situated at a town centre or village location. The application site is situated at the end of single width access road and no evidence has been submitted to show that it is served by public transport and it is expected that access to the site will be by private motor vehicle (for employees, visitors, and deliveries). Accordingly, the proposed development would not meet the Government objective to minimise the number and length of motorised journeys and is therefore clearly contrary to the underlying principles of the planning system to achieve sustainable development.
52. PPG13 sets out Government policies relating to transport. The key objective of the guidance is to integrate planning and transport at all levels to (inter alia); promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling; and, reduce the need to travel, especially by car. In order to deliver the objectives of this guidance, when preparing development plans and considering planning applications, local authorities should (amongst other things); ensure that development comprising jobs, shopping, leisure and services offers a realistic choice of access by public transport, walking, and cycling, recognising that this may be less achievable in some rural areas; and, in rural areas, locate most development for housing, jobs, shopping, leisure and services in local service centres which are designated in the development plan to act as focal points for housing, transport and other services, and encourage better transport provision in the countryside.
53. Local Plan Policy TP15 requires the occupiers of new and extended developments employing more than 25 people to prepare and implement a Travel Plan. The application being an application to remove and vary conditions does not include details of the existing and proposed staffing levels in order to determine whether a Travel Plan is required in respect of the proposal and in the absence of this information, the proposal cannot demonstrate that it will deliver sustainable transport objectives.
54. Local Plan Policy EM20 states that proposals for the expansion/extension of an existing employment site will be permitted provided there is no material conflict with residential and environmental amenity and highway safety and as detailed further in the report the proposal is not acceptable in terms of its impact on residential amenity.

Impact upon residential amenity

55. In total, there are six residential properties situated along Pannington Hall Lane, Pannington Hall is immediately adjacent to the application site and Pannington Hall Cottage is located at the farm entrance, four other dwellings are located towards the junction of Pannington Hall Lane with the A137.
56. The proposal has been fully assessed by Environmental Health Officers and it is concluded that there is considerable potential for nuisance from noise to be experienced at the nearest noise sensitive premises if music is played at functions (internally or externally), even with strict noise controls in place and the playing of amplified music at functions should be strongly resisted.

57. In terms of general neighbouring amenity, it is considered that the extension of opening hours of the café into an evening restaurant use (including outdoor facilities), available until 11pm every night of the year is likely to lead to considerable loss of amenity for the occupiers of neighbouring property. The significant increase in noise and general disturbance resulting from the introduction of commercial activity throughout the evenings will adversely affect the quiet enjoyment of nearby properties in terms of the general movement of customers and staff to, from and around the site together the added background noise associated with vehicle engines, car doors slamming and car audios etc.
58. In addition, whilst Pannington Hall Lane is a single width carriage, it is nevertheless available for use by two way traffic and residents should reasonably expect to be able to move freely along the lane in either direction during the evenings when the farm is closed to visitors.
59. It should also be noted that whilst the permitted café use is confined to the centre section of the main barn, planning permission has previously been granted for the additional use of the rear section of the barn as café and kitchen and although this permission has since expired, the applicants may reasonably expect the expired permission to be renewed if applied for on the same terms, hence there is a realistic possibility that the café floor space could be significantly enlarged in the future. Indeed it will be noted that an application, (which is currently invalid), has been submitted (B/10/00752) for the change of use of a further part of the barn to restaurant and kitchen, amounting to some 150m² of additional floor space and proposing to open from 9am to 11pm.

Impact upon highway safety

60. The comments received from the occupiers of neighbouring property are noted however the Local Highway Authority has not objected to the application and a refusal of the proposal on highway safety grounds is not therefore warranted.

Impact upon the character and setting of the listed building

61. PPS5 establishes that the Government's overarching aim is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations. To achieve this, the Government's objectives for planning for the
62. historic environment are to deliver sustainable development by ensuring, amongst other things, that policies and decisions concerning the historic environment take account of the wider social, cultural, economic and environmental benefits of heritage conservation; and the positive contribution of such heritage assets to local character and sense of place is recognised and valued; and consideration of the historic environment is integrated into planning policies promoting place-shaping.
63. Paragraph HE10.1 informs that when considering applications for development that affect the setting of a heritage asset, (in this case whilst the application barn is not listed, Pannington Hall is a listed building or heritage asset) local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. When considering applications that do not do this, local planning authorities should weigh any such harm against the wider benefits of the application. Moreover, Para HE10.2 explains that local planning authorities should identify opportunities for changes in the setting to enhance or better reveal the significance of a heritage asset. Taking such opportunities should be seen as a public benefit and part of the process of placeshaping.

64. Local Plan Policy CN06 protects the setting of a listed building and requires proposals to harmonise with the existing building and its setting whilst retaining a curtilage area and/or setting which is appropriate to the listed building and the relationship with its surroundings.
65. The proposed extension of the approved café use into an evening restaurant use is not likely to affect the continued preservation of those physical elements of the setting of the listed building, namely the relationship of space and buildings in this traditional farmyard setting and provided the outdoor restaurant seating area does not extend any nearer to Pannington Hall than is indicated on the submitted plan, the furniture and other associated items should not visually intrude into, or detract from, the setting of the listed building nor the approach to it.

Precedence

66. Officers are mindful of an appeal decision in respect of the proposed use of Trucketts Hall, Boxted as a wedding and conference function facility which was dismissed in 2009 following the refusal of planning permission under B/07/00566. The inspector commented that the use should, by preference, be located in a market town or suitable village and that because the site is remote from any recognised local centre, the use failed to constitute a sustainable form of development in transport terms. Furthermore, the proposal would be likely to generate a large number of individual car journeys, given the lack of any evidence to show that public transport serves the area.
67. In respect of the application proposal, the grant of planning permission for an evening restaurant use would establish a precedent for other restaurant uses on farms elsewhere in the district.

RECOMMENDATION

That planning permission be refused for the following reasons, including:

- Contrary to PPS's 1, 4 & 7 and Policies CR01, CR18, SP03 and EM20 as the proposal does not constitute sustainable development and will adversely affect the residential amenities of neighbouring properties.