

Mr Roy Sutcliffe
B & K Universal
The Field Station
Grimston Park
Grimston
Hull
HU11 4QE

Our Ref: APP/E2001/A/11/2156819
Your Ref: 11/01324/STPLF

25 January 2012

Dear Mr Sutcliffe

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY B & K UNIVERSAL
AT THE FIELD STATION, GRIMSTON, HULL, HU11 4QE
APPLICATION: REF 11/01324/STPLF**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr Mark Dakeyne BA (Hons) MRTPI, who made a site visit on 4 November 2011 and considered written representations on your appeal against a decision of East Riding of Yorkshire Council to refuse planning permission for the demolition of existing buildings and erection of 4 No. new buildings in connection with existing research and development facility at The Field Station, Grimston, Hull, HU11 4QE in accordance with application number 11/01324/STPLF, dated 5 April 2011.
2. On 8 September 2011, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because it relates to proposals giving rise to substantial regional or national controversy.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The Secretary of State has had regard to the procedural matters set out at IR3. For the reasons given by the Inspector, he agrees that no prejudice has been caused to any party by these matters and he has determined the appeal on the basis of the revised information (IR3). The Secretary of State has also taken account of the Inspector's comments in IR4 that listed building consent was granted by the Council on 21 June 2011 for certain works at the appeal site (ref: DC/11/01325/STLBC/STRAT).

Matters arising after the Inspector's consideration of the appeal

5. At IR42-43, the Inspector refers to the thousands of representations and several large petitions submitted which raise moral and ethical objections to the breeding for, and use of animals in, medical and other research, particularly beagles. The Secretary of State has continued to receive large numbers of representations raising these concerns. He has also received letters from 32 MPs and those are listed at Annex A. The Secretary of State has carefully considered the correspondence received after the Inspector had concluded his consideration of the appeal, and he does not consider that it raises any new issues which would either affect his decision, or require him to refer back to parties prior to reaching his decision. Anyone wishing to see copies of this correspondence should submit a written request to the above address.

Policy considerations

6. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case the development plan comprises the Yorkshire and Humber Plan (YHP) published in 2008, which is the relevant Regional Strategy (RS), and saved policies of both the Joint Structure Plan for Kingston Upon Hull and East Riding of Yorkshire adopted in 2005 (SP) and the Holderness District Wide Local Plan adopted in 1999 (LP). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR13 - 18.
8. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the YHP is formally revoked by Order, he has attributed limited weight to its proposed revocation in determining this appeal.
9. In deciding these applications, and in view of the G1 status of Grimston Garth and its kitchen garden wall (IR5) and the GII* status of the stable block (IR6), the Secretary of State has paid special regard to the desirability of preserving the buildings or their setting or any features of special architectural or historic interest which they possess, as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

10. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement 1 (PPS1): *Delivering Sustainable Development*; Planning Policy Statement 4 (PPS4): *Planning for Sustainable Economic Growth*; Planning Policy Statement 5 (PPS5): *Planning for the Historic Environment*; Planning Policy Guidance 13 (PPG13): *Transport*; Planning Policy Guidance 24 (PPG24): *Planning and Noise*; and Circular 11/95 – *The Use of Conditions in Planning Permissions*.
11. The draft National Planning Policy Framework which was published for consultation on 25 July 2011 is a material consideration. However, as this is a consultation document and is subject to change, the Secretary of State has afforded it little weight.

Main issues

12. In the Secretary of State's view, the main considerations in this case are those set out by the Inspector at IR47 and the scheme's compliance with the development plan .

Coastal Zone and Sustainability Principles

13. Having had regard to the Inspector's analysis at IR48 - 51, the Secretary of State sees no reason to disagree with his conclusion that the principle of the development, taking into account its location in the coastal zone and other sustainability principles, would be acceptable. For the reasons given by the Inspector at IR49-50, the Secretary of State agrees that the conflict with LP policies Env8, G1, G2, and Ec6 would not be sufficient grounds to dismiss the appeal and that the development would not compromise the key sustainable development principles set out in PPS1, PPS4 and PPG13 (IR51).

Highway Network

14. The Secretary of State agrees with the Inspector, for the reasons he gives at IR52 - 59, that the highway approaches would provide a satisfactory means of access for the development, taking into account the mitigation proposed (IR59).

Listed Buildings

15. The Secretary of State has given very careful consideration to the Inspector's comments at IR60 – 64. He sees no reasons to disagree with the Inspector's analysis at IR61 or with his conclusion that the appeal proposals would result in a scale of development which would be more imposing and less subordinate than the existing buildings, and that the proposal would detract from the setting of the listed wall. He also agrees with the Inspector that the proposal would result in a more intrusive development above the walled former garden on the approach to the main house, and that it would lead to a greater imbalance between the principal building on the estate and those buildings, structures and spaces around it which ought to maintain a subordinate scale and appearance (IR62). He shares the Inspector's view that the Design, Access and Planning Statement is inadequate and that the requirements of Policies HE6, HE7 and HE9 of PPS5 have not been met (IR63). In conclusion, the Secretary of State agrees with the

Inspector that the appeal proposal would detract from the setting of the nearby listed buildings and conflict with Policy ENV6 of the SP and Policies G6 and Env22 of the LP and that the enhancement resulting from the exposure of more of the wall would not outweigh the harm that he has identified.

Living Conditions

16. The Secretary of State sees no reason to disagree with the Inspector's analysis of the effect of the proposal on living conditions of nearby residential occupiers (IR65 – 71). Taking into account the proposed increase in the footprint of the buildings (IR9) the Secretary of State shares the Inspector's concern that the use of the site could become significantly more intensive (IR66) and, for the reasons given by the Inspector at IR66-67 he agrees that, in the absence of an objective assessment, there is insufficient information to conclude that noise from the appeal site could be suitably mitigated (IR67). The Secretary of State agrees with the Inspector's conclusion at IR71 that the appeal proposal would have an unacceptable impact on the living conditions of nearby residential occupiers, with particular reference to noise and disturbance, and that there would be conflict with Policy G3 of the LP as the proposal would not safeguard the quality of life of residents.

Other Matters

17. The Secretary of State has carefully considered the Inspector's deliberations on the range of other matters raised in this case (IR72-78). The Secretary of State acknowledges the moral and ethical objections raised by very substantial numbers of people (IR42). However, like the Inspector he has had regard to the fact that the Courts have determined that moral considerations are not normally material to a planning decision, and he has also taken account of the fact that separate legislation exists to control the breeding of animals for, and their use in, research and that such controls lie outside the land-use planning regime (IR77). In conclusion, the Secretary of State is satisfied that the other matters set out at IR72-78 are either not material planning considerations or are matters which do not carry significant weight in this case.

Conditions

18. The Secretary of State has considered the proposed conditions, the Inspector's comments at IR44 - 45 and at IR79 - 82, and national policy as set out in Circular 11/95. He considers that the proposed conditions, as set out in the annex to the Inspector's report, are reasonable and necessary and meet the tests of Circular 11/95. However, they do not overcome the Secretary of State's reasons for dismissing the appeal.

Planning Balance and Overall Conclusions

19. The Secretary of State has concluded that the appeal proposal would detract from the setting of the listed buildings and that it would have an unacceptable impact on the living conditions of nearby residential occupiers. He has identified conflict with Policy ENV6 of the SP and Policies G3, G6 and Env22 of the LP. He has also concluded that the scheme is not in accordance with national policy in

PPS5 and PPG24. He concludes overall that the impact on the listed buildings and their setting would be such that the scheme would not comply with the requirements of section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Furthermore he concludes that the scheme does not comply with the development plan, and he has not found any material considerations of sufficient weight to indicate that he should determine the appeal other than in accordance with the development.

Formal Decision

20. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your appeal and refuses planning permission for the demolition of existing buildings and erection of 4 No. new buildings in connection with existing research and development facility at The Field Station, Grimston, Hull, HU11 4QE in accordance with application number 11/01324/STPLF, dated 5 April 2011.

Right to challenge the decision

21. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

22. A copy of this letter has been sent to East Riding of Yorkshire Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Authorised by Secretary of State to sign in that behalf

Annex A

MP	Date of letter
RT Hon Peter Lilley	27 September 2011
Phil Wilson	3 October 2011
Henry Bellingham	6 October 2011
Andrew Turner	14 October 2011
RT Hon Alan Johnson	27 October 2011
Dan Jarvis	28 October 2011
RT Hon George Howarth	31 October 2011
Eric Ollerenshaw OBE	2 November 2011
Graham Stuart	9 November 2011
Andrew Gwynne	14 November 2011
Angela Smith	18 November 2011
Rt Hon Hazel Blears	28 November 2011
Mike Weatherley	7 December 2011
Dame Anne Begg	9 December 2011
Tracey Crouch	12 December 2011
Sajid Javid	13 December 2011
Jacob-Rees-Mogg	15 December 2011
James Brokenshire	15 December 2011
Jim Dowd	15 December 2011
Rt Hon Danny Alexander	21 December 2011
Rt Hon Joan Ruddock	22 December 2011
Debbie Abrahams	22 December 2011
Richard Shepherd	3 January 2012
Stephen Phillips QC	3 January 2012
Norman Baker	6 January 2012
Rt Hon Theresa Villiers	6 January 2012
Lisa Nandy	10 January 2012
Jessica Morden	12 January 2012
Steve Baker	13 January 2012
Roberta Blackman-Woods	13 January 2012
Stephen Twigg	13 January 2012
Jeremy Corbyn	17 January 2012



Report to the Secretary of State for Communities and Local Government

by Mark Dakeyne BA (Hons) MRTPI

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

Date: 13 December 2011

TOWN AND COUNTRY PLANING ACT

EAST RIDING OF YORKSHIRE COUNCIL

APPEAL BY B & K UNIVERSAL LTD

Site visit made on 4 November 2011

B & K Universal, The Field Station, Grimston, Hull HU11 4QE

File Ref: APP/E2001/A/11/2156819

File Ref: APP/E2001/A/11/2156819

B & K Universal, The Field Station, Grimston, Hull HU11 4QE

- 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 B & K Universal Ltd against the decision of East Riding of Yorkshire Council.
- The application Ref 11/01324/STPLF, dated 5 April 2011, was refused by notice dated 21 June 2011.
- The development proposed is the demolition of existing buildings and erection of 4 No new buildings in connection with existing research and development facility.

Summary of Recommendation: The appeal be dismissed.

Procedural Matters

1. The appeal was recovered for determination by the Secretary of State by letter dated 8 September 2011 because the appeal relates to proposals giving rise to substantial regional or national controversy.
2. The Council refused planning permission for the following reason:
"There is insufficient information with the application to satisfactorily determine whether potential mitigation measures which will need to be provided on the delivery and construction vehicle route can be accommodated or would secure acceptable safety measures to ensure there would be no detrimental impact on the safe movement of traffic and other highways users on the surrounding highway network. The development is considered contrary to PPG13: Transport and Policy G2 of the Holderness District Wide Local Plan Adopted – April 1999."
3. A transport statement was submitted in June 2011, after the application's submission to the Council but before its determination. The statement included proposals for passing places. As part of the appeal documentation the appellants have put forward a supplementary transport statement which includes a revised passing place design (an increased width and tarmac surface) together with an additional passing place. As these changes relate to off-site mitigation rather than the proposal itself and have been publicised as part of the appeal process, it would be reasonable to take them into account in deciding the appeal.
4. The demolition of the buildings referred to in the planning application and the alterations to an existing gate within the wall to allow access by construction vehicles were granted listed building consent by the Council on 21 June 2011.

The Site and Surroundings

5. The appeal site is centred on the walled former kitchen garden of Grimston Garth, a Grade I listed building, which lies to the south-east of the appeal site. Grimston Garth is a late Georgian castellated Gothic mansion designed by the Palladian architect, John Carr. The kitchen garden wall, as a curtilage structure, also has Grade I listed building status. The brick wall is about 4m high but is topped in part by a barbed wire security enclosure. Most of the existing buildings associated with the business operated by the appellants and a related business, IVB, are enclosed within the listed garden wall. However, a small group lie beyond its southern perimeter. The buildings are a mix of low-slung twentieth century timber and brick buildings of unprepossessing appearance, some being of modular construction. The higher parts of some of the buildings are visible above

the wall. There is a rectangular lawn towards the south-west corner of the walled former garden.

6. Grimston Garth's Grade II* listed stable block lies to the north of the main house beyond the eastern section of the garden wall. The eastern leg of the stable block forms a dwelling. The unlisted Selbourne House and its outbuildings lie immediately to the north of the stable block and also to the east of the garden wall, beyond the appeal site. Grimston Garth and the stable block are screened to a large extent on the approach to the appeal site and on the site itself by the wall, a small woodland to the south of the wall and the buildings at Selbourne House.
7. The walled garden, Selbourne House to the north of the stable block and other land and buildings on the approach to the site were sold off from the main house in the 1970s and are now under the control of B & K Universal Ltd. As a result Grimston Garth and the stable block are in separate ownership from the appeal site.
8. The estate of Grimston Garth, including its surrounding parkland, lie at the end of single vehicle width unclassified country lanes in a remote rural area between the Holderness coast and the B1242. The lanes, Grimston Road and Grimston Lane, pass through low-lying arable land before reaching the hamlet of Grimston. Grimston Road is gently winding. The approach road becomes Grimston Lane after a right angled bend. Grimston Lane is straight. Both lanes are edged by grass verges. Vehicles can pass each other where the lanes widen at some of the private access points along the lanes and at several informal passing places. The public road terminates at Grimston where it becomes a gated access drive serving the appellants' land holding and Grimston Garth. Grimston is a small enclave of residential development, with dwellings lining both sides of the road. There is a distance of about 200m between the end of the public road and the appeal site. There is some sporadic development around a farmstead on Grimston Road by Garton Church.

The Proposal

9. The proposal involves the replacement of most of the existing buildings at the appeal site with four rectangular buildings which would be sited parallel to each other on a west to east axis. Three of the new buildings would be within the walled former garden whereas the fourth would be immediately to the south between the wall and a small woodland. The dimensions of the buildings would vary between 47m and 50m in length, and 15m and 18m in width. Eaves heights would range from 3.5m to 4m, with ridge heights exceeding 6m. The total footprint of the new buildings would be about 3640 sq m. I estimate, based on the existing block plan, that the buildings to be removed have a footprint of about 2500 sq m.
10. The buildings would be constructed with colour-coated steel cladding to the walls and profiled metal sheeting to the roofs. Fenestration would be limited to access doors, mainly on the end elevations, and lines of high level glazing to the main elevations. The application states that the new buildings would be used primarily for the breeding of animals used in connection with research. Some research and development would be carried out on the site. The split of uses or the intensity of the animal breeding operation is unclear from the submitted information.

However, it is indicated that these activities would be a continuation of the existing operation.

Planning Policy

11. The development plan for the area currently consists of the Yorkshire and Humber Plan (RS) published in May 2008, the Joint Structure Plan for Kingston Upon Hull and East Riding of Yorkshire adopted in 2005 (SP) and the Holderness District Wide Local Plan adopted in 1999 (LP). Certain policies of the SP and LP were saved by Directions under Schedule 8 of the Planning and Compulsory Purchase Act 2004.
12. The Localism Act received Royal Assent on 15 November 2011. The Act includes a proposal to revoke regional strategies including the RS relevant to this appeal. However, at the time of writing this report the RS remains part of the development plan as environmental assessments relating to abolition are currently subject to consultation. The weight to be given to the intention to abolish the RS is a matter for the decision maker.
13. Policy ENV5 of the RS requires that new developments of more than 1000 sq m of floorspace, should secure at least 10% of energy from decentralised and renewable or low-carbon sources.
14. Policy ENV6 of the SP requires that the setting of listed buildings should be protected and, where appropriate, enhanced.
15. Policy G1 of the LP indicates that the Council will provide opportunities for sustainable economic development. Policy G2 requires that development will be located where services, facilities and a transport network exist or can be provided efficiently and with minimal environmental impact. Policy G3 states that development must take full account of the need to protect the environment and safeguard the quality of life of residents. Policy G6, amongst other things, indicates that development which is in accordance with other policies of the LP will be permitted if it safeguards nature conservation and heritage features.
16. The appeal site lies within the Coastal Zone as defined by the LP. Policies Env5 and Env8 of the LP aim to restrict development in the Coastal Zone to minimise coastal erosion and flooding. Env8 states that no development will be allowed to encroach within 30m of the cliff edge. In the remainder of the coastal zone development is restricted. Some development may be permitted if the developer is able to demonstrate that a location beyond the coastal zone would be inappropriate, providing it is beyond 200m of the eroding cliff.
17. Policy Env22 relates to the preservation and enhancement of the setting of listed buildings. Policies Env37, 38 and 39 deal with intensive livestock units.
18. Policy Ec6 of the LP allows small scale business uses on non-allocated sites within or adjoining the defined development limits of settlements. Otherwise economic development in the open countryside is restricted to the reuse or adaptation of rural buildings (Policy Ec8).
19. With regard to national policy, the Government has published a Draft National Planning Policy Framework (NPPF) intended to replace existing national policy, including Planning Policy Guidance Notes (PPG) and Planning Policy Statements (PPS). The NPPF was subject to consultation until October 2011. At the time of

writing this report the Government is currently considering the consultation responses but has not published a final version of the document. That said the draft NPPF is capable of being a material consideration, the weight to be attached being a matter for the decision maker.

Summary of the Case for the Appellants

20. The site is within the coastal zone but related to an existing use which is to be redeveloped. The development would be 450m from the cliffs. There would be no adverse impact on the coastal zone.
21. B & K Universal state that they would increase full time staff from 30 to 40. IVB, who lease buildings, would not operate from the site after December 2011. The overall staffing numbers on the site would not materially change.
22. It is estimated that traffic levels associated with the site would marginally reduce from their currently relatively low levels. Construction related traffic would not be significant, estimated as a maximum of 14 daily vehicle movements during two separate peak periods of a fortnight during demolition and concreting.
23. The appellants have put forward mitigation to overcome the highway concerns of the Council in the form of passing places on Grimston Road and Grimston Lane. The passing places can be secured by a condition. Similar traffic management measures have been subject to conditions, including for significant projects such as wind farms allowed on appeal. The appellants have been willing to cooperate with the Council in response to highway concerns.
24. The assumption that the lane side verges form part of the public highway is reasonable taking into account existing physical features, a view affirmed by a Highway Officer of the Council. The new passing places would be within the verges. The new passing places would be hard surfaced and would, with the exception of one bay, allow a carriageway width of 5.5m referred to in Manual for Streets which allows two HGVs to pass. Inter-visibility between the passing places would be acceptable, particularly as an additional bay has been included and one of the bays relocated.
25. The passing places would be constructed prior to the commencement of on-site construction. The highway measures would provide for permanent safer movement for all traffic using the lanes.
26. The proposal would not have a significant impact on the setting of Grimston Garth or the Grade II* listed stable block within its curtilage. There is good screening between the appeal site and the principal listed buildings. The proposals would result in the removal of existing lean-to buildings abutting the listed garden wall. The exposing of a greater stretch of the wall and the redevelopment proposals as a whole would have a positive impact on the wall. The Council's Conservation Officer did not object to the proposals.
27. Previous activities on the site have not led to noise complaints. The Council's Environmental Control Officer has no objections to the application. The modern buildings would reduce any adverse impacts on local residents as there would be less potential for noise and odours. This is shown by noise measurements taken at similar buildings in the USA. Insulation would be improved. A clinical environment would be maintained. Dogs would not have access to outdoor areas as has been the case in the past to protect their health. Animal waste would be

placed in sealed bags and collected by waste management contractors. No additional lighting is proposed. The appellants have met with local residents and intend to carry out monthly liaison meetings.

28. The business is a valuable local employer. The proposals would modernise the buildings which would help to safeguard jobs at the site. There would be no impact on tourism in the area.
29. Surface water run-off would not be significantly increased as a result of the proposal. Foul drainage would be dealt with by the private sewage treatment plant owned by the appellants.
30. The adjacent woodland and hedge has been taken into account. An Arboricultural Assessment Report submitted with the application indicates that the development would not involve the removal of any trees. The existing buildings are not suitable for use by nesting birds or bats.
31. Moral and ethical objections should carry limited weight in planning decisions. In any event the animal research is fully licensed by the Home Office. The activities at the appeal site comply with relevant legislation in respect of animal breeding and the use of animals in research. The buildings would be compliant with a new European Directive which comes into force in the next few years. The Directive states that where possible dogs should be provided with outside runs. However, it is not currently proposed to make outside runs mandatory.

Summary of the Case for the Council

32. The Council note the changes proposed in the Supplementary Transport Statement in terms of widening and construction of the bays and the provision of an additional passing place. These measures would represent improvements on the proposals considered at application stage. However, some of the existing areas to be relied upon as passing places would not be improved and would remain unmade. Inter-visibility between passing places would be inadequate in some cases due to the bends in the approach roads and the existence of substantial hedgerows.
33. The Council is not satisfied that the passing places would be on highway land. This matter should have been resolved. If the places are to be on third party land notices should have been served and there should have been a measure of agreement with landowners. A condition relating to the passing places could not be imposed as some may extend onto third party land.
34. Highway safety concerns would outweigh any potential economic benefits.

Summary of Other Written Representations

The following issues have been raised:

Georgian Group

35. The proposals are in need of further evaluation and clarification on the impact of the development on the setting of the nearby listed buildings. Without such evaluation the proposal would not meet the requirements of policies within PPS5.

Local Residents

36. The development would conflict with policies which seek to protect the coastal zone.
37. The access roads are unsuitable for the construction traffic and vehicle movements arising from the development. There would be increased dangers for the residents of Grimston, including children, as there are no passing places, pavements or street lighting in the hamlet.
38. The proposals would detract from the listed wall and the setting of Grimston Garth and the stables. There would be a number of unacceptable impacts on living conditions caused by noise, odour, lighting, construction and traffic. Mechanical ventilation and other plant would be required but no details are provided. The proposal would be akin to an intensive livestock unit and relevant policies should apply.
39. Protests and demonstrations would be likely to increase with greater impact on the peaceful enjoyment of residents' homes. Local tourism would be likely to be affected. The need to police the site would add to policing costs, divert scarce resources from elsewhere and increase disruption to local residents.
40. Increased run-off could exacerbate the risk of flooding. If animal numbers significantly increase the foul sewage system may not be adequate. There is insufficient information on protected species such as bats and newts which appear to be present on the site or nearby.
41. The proposal contains insufficient details about the proposed use; neighbouring dwellings and land; the existing buildings; the adjacent woodland; the effect on the setting of the nearby listed buildings; and noise, odour and lighting impacts.

Wider Community

42. Thousands of representations and several large petitions have been received from addresses both in the UK and elsewhere against the development. The vast majority of the objections raise moral and ethical objections to the breeding for, and use of animals in, medical and other research, particularly beagles. Many representations point to alternative methods of research and the Government's moves to reduce the number of animals used in experiments in response to a European Directive.
43. Some of the representations refer to the same issues that have been raised by local residents. In addition the following matters have been raised - the lack of outdoor runs would conflict with advice within the Protection of Animals European Directive; the business is American owned and, therefore, income generated would not benefit the local area; indeed the nature of the use would be likely to detract from investment in the area.

Conditions

44. The Council has put forward conditions in the event that the proposal might be permitted. These relate to the materials to be used in construction; the reinstatement of the wall; details of drainage, plant and machinery and lighting; a requirement to use decentralised, low carbon energy or renewable energy; and the need to submit both a Traffic Management Plan and a Travel Plan.

45. The appellants consider that the conditions relating to drainage and plant and machinery are unreasonable. With regard to the former, they consider existing drainage is acceptable. So far as the latter is concerned, they state that there is no plant or machinery associated with the development. In relation to the traffic management condition, the requirement for recordings of the before and after state of the highway over and above a photographic survey is considered unreasonable. If the condition referred to construction traffic it would be more relevant.

Appraisal

46. Numbers in square brackets [] indicate the paragraphs in the report from which the appraisal is drawn.

47. The main planning considerations are:

- (1) the principle of the development taking into account its location in the coastal zone and other sustainability principles;
- (2) whether the highway approaches would provide a satisfactory means of access for the development;
- (3) the effect on the setting of the nearby listed buildings; and,
- (4) the effect on the living conditions of nearby residential occupiers, with particular reference to noise and disturbance.

Coastal Zone and Sustainability Principles

48. The proposal would not directly affect or be affected by coastal erosion or coastal defence works. There would not be any impact on coastal habitats. As such there would be no conflict with Policy Env5 [16].

49. The site is about 450m from the coast. Thus, it is beyond both 30m and 200m distances referred to in Policy Env8 [16]. In relation to the remainder of the policy, it has not been demonstrated that the development has specific requirements that make a location outside the coastal zone inappropriate. However, the appellants are already operating from the site. A business use appears to have existed on the site for some time. Whilst the proposal does not comprise an extension to, or conversion of, an existing building, it relates to an existing fairly intensively developed site. In the context of the coastal zone as a whole the quantum of development would not significantly increase. The buildings would remain within the confines of the existing site which has clearly defined physical boundaries.

50. Similar considerations apply in relation to Policies G1, G2 [15] and Ec6 [18] of the LP and PPS1, PPS4 and PPG13 which promote sustainable economic development. The remoteness of the appeal site counts against the development meeting sustainability criteria, including reducing the need to travel. However, as the proposals relate to an existing business and developed site, sustainability considerations need to be weighed against the economic benefits of job retention and support for economic development. In this respect account needs to be taken of the Government's Planning for Growth agenda.

51. In conclusion the principle of the development taking into account its location in the coastal zone and other sustainability principles would be acceptable. Conflict with the above mentioned policies of the LP would not be sufficient grounds to

dismiss the appeal. The development would not compromise the key sustainable development principles set out in national planning policy.

Highway Network

52. The country lanes serving the development would not meet modern day highway standards for access to an employment site of this scale. However, as business uses already exist on the site it is necessary to assess whether the proposals would be likely to lead to an increase in, or significant change in the type of, vehicle movements and, if so, whether the mitigation proposed would negate any adverse affects arising from such increase.
53. The proposals would result in the floor area of buildings on the site increasing by almost 50%. Balanced against this is the appellants' assertion that overall staffing numbers on the site would not materially change [21].
54. Notwithstanding the short-term employment situation and the traffic flow predictions, it would be reasonable to assume an increase in vehicle flows equating to the floorspace increases. The use of employment premises can change over time. More intensive use of the premises for breeding purposes would be likely to increase flows of service vehicles. Moreover, there would be a temporary increase in movements during construction, including larger vehicles [22].
55. The mitigation would primarily comprise the provision of passing places [3 & 23]. All but one of the passing places would meet recommended width requirements [24]. The new passing places would be hard-surfaced. There would be inter-visibility between several of the passing places. Grimston Lane is a straight road with good forward visibility. The extent of the adopted highway is not clear from records. However, it would be reasonable to assume that the verges between the carriageway and the roadside boundaries and ditches form highway land. Indeed this appears to have been the view of a Highway Officer whilst the application was under consideration by the Council [24].
56. The passing places would improve the safety and function of the highway for all users, including local residents, cyclists, pedestrians and horse riders. Some of the passing places to be relied upon would be existing accesses or pull-ins, including non hard-surfaced areas [8]. However, it would be commonplace and reasonable to rely on such informal features which are likely to remain available even if the land is in third party ownership and would be supplemented by additional hard-surfaced passing places.
57. It could be a requirement of a planning permission that the passing places be provided before any on-site construction commences [25]. Such a requirement would satisfy the tests in Circular 11/95 and in particular the advice in paragraph 40 of the circular. Moreover, vehicle movements during construction could be controlled by a method statement. Subject to such controls highway dangers during the temporary construction period would be unlikely to materially increase. Such safeguards would also protect the residents of Grimston who live on the approach roads. Some overrunning of the highway would be likely to take place during construction. However, the availability of more passing places would be likely to keep such occurrences to a minimum.

58. The increase in vehicle movements would not be significant enough to adversely affect the safety of the junction of Grimston Road with the B1242. There is no reason why utilities should be affected. Visitors and others accessing the site are likely to be aware of its location, notwithstanding the limited amount of directional signage.
59. In conclusion the highway approaches would provide a satisfactory means of access for the development, taking into account the mitigation proposed. Policy G2 of the LP deals with the principles of location [15]. It does not seem to me to be directly relevant to localised highway impacts. The proposal is the type referred to in paragraph 43 of PPG13 – one that would result in modest additional daily vehicle movements. Cost effective improvements could be undertaken that would limit any highway impacts of the development.

Listed Buildings

60. I have had special regard to the desirability of preserving the setting of the listed buildings in considering this issue.
61. The existing development detracts from the character and appearance of the wall and obscures significant sections. In comparison the proposal would lead to the exposure of more of the wall, particularly the southern section. However, the four rectangular buildings would occupy a significant footprint within and just outside the walled former kitchen garden. The fairly consistent ridge height would exceed that of the walled enclosure by about 2m [5 & 9]. The proposals would have a more regimented layout and utilitarian appearance than the existing buildings and lead to the loss of the remaining lawn area [5]. The metal materials would be stark in the context of predominantly brick, stone and slate buildings nearby. The proposals would result in a scale of development which would be more imposing and less subordinate than the existing. As a result the proposal would detract from the setting of the listed wall.
62. Despite the level of screening [6], the proposal would result in a more intrusive development above the walled former garden on the approach to the main house. It would lead to a greater imbalance between the principal building on the estate and those buildings, structures and spaces around it, such as the walled garden, which ought to maintain a subordinate scale and appearance.
63. The Design, Access and Planning Statement which accompanied the application included a Heritage Section. However, the statement is inadequate and does not evaluate the relationship of the development to Grimston Garth or the stables. The requirements of Policies HE6, HE7 and HE9 of PPS5 have not been met.
64. In conclusion the proposal would detract from the setting of the nearby listed buildings and conflict with Policy ENV6 of the SP and Policies G6 and Env22 of the LP. The enhancement resulting from the exposure of more of the wall would not outweigh the harm that I have identified. In arriving at this conclusion I have taken into account the comments of the Council's Building Conservation Officer [26]. The Officer did comment that the appearance of the development would be improved if the ridge height of the proposed buildings could be lowered to the same height as the listed wall. This was not done. However, I also note the position of the Georgian Group [35]. The alterations that directly affect the wall are not within my remit as they have already been granted listed building consent [4].

Living Conditions

65. Noise and disturbance could come from a number of sources. Increased traffic flows would lead to additional noise and disturbance particularly if there were to be more at night and greater numbers of heavy vehicles. However, based on the information before me, it is unlikely that traffic flows, the timing of movements or vehicle types would increase to an extent that would cause unacceptable harm to the living conditions of those who live along Grimston Road and Grimston Lane. There would be greater disturbance during construction but this would be for a temporary period.
66. It is indicated that the proposed buildings would be used predominantly for the breeding of animals [10]. The characteristics of the buildings, including the limited natural light sources and outlook [10], reflect this type of use rather than use as conventional offices. It has been suggested that they could be used for the breeding of significant numbers of dogs. The appellants imply that some or all of the floorspace could be used for the breeding of dogs. However, information on the noise impacts of such a use is lacking. No noise assessment has been carried out in accordance with PPG24. There is no information about the insulation qualities of the buildings other than the fact that they will meet Building Regulation requirements. Mechanical ventilation would appear to be likely to be required as the glazing is shown as fixed panels but no details are provided. Although there is reference to the absence of noise complaints in the past [27], the use could become significantly more intensive.
67. Some dogs have been kept on the site in the past. There are existing kennels on the site with outdoor runs. The redevelopment proposals would not include outdoor runs. However, in the absence of an objective assessment, it is not clear whether the confining of dogs to buildings would outweigh the potential noise impacts of the proposal. Comparing the site with an operation elsewhere [27] does not comprise an adequate assessment. There is insufficient information to conclude that noise could be suitably mitigated so a planning condition would not be appropriate.
68. Significant odours could arise if large numbers of animals were kept in the buildings. Control of odours would be mainly dependent on the appropriate management of the indoor environment. Management measures could be secured by a planning condition including the removal of controlled waste by an approved carrier [27].
69. The appellants indicate that lighting on the site would not need to increase [27]. However, as the site would be largely redeveloped and new external lighting would be likely, there could be a requirement that any new lighting be subject to approval by the Council so that its intensity and the direction of any luminaries could be controlled.
70. Reference has been made to whether policies relating to intensive livestock units should apply in this case [38]. LP Policies Env37, Env38 and Env39 [17] appear to be framed with the intention of dealing with conventional agricultural livestock buildings of which there are many in Holderness rather than the rare type of facility proposed in this appeal.
71. In conclusion the proposal would have an unacceptable impact on the living conditions of nearby residential occupiers, with particular reference to noise and

disturbance. There would be conflict with Policy G3 of the LP [15] as the proposal would not safeguard the quality of life of residents. I am satisfied that the potential impact from odours and lighting could be satisfactorily mitigated by the use of conditions.

Other Matters

72. The proposal involves investment in an existing business which would safeguard jobs at the site [28]. It is difficult to quantify whether the type of business would have any adverse impacts on the wider local economy or tourism. However, the site is off the beaten track. Most tourists heading for coastal towns or villages would be unaware of its existence. The proposal would be unlikely to adversely affect the local economy or tourism. The ownership of the business is not a material factor.
73. Although the floorspace of buildings would increase, existing drainage systems should be able to cope. There is no evidence to the contrary. Wash waters containing chemicals would need to be contained for off-site disposal in accord with environmental protection controls.
74. The southernmost building would be close to a hedge and an area of woodland. However, the woodland is separated by fencing, including a metal palisade fence. The hedge would be closer to the building but it should be possible to retain it intact. The conclusions of the arboricultural report [30], which are accepted by the Council's Trees and Landscape Officer, appear to be sound.
75. I accept that it is important to assess sites for protected species where there is a reasonable likelihood of a presence. However, in this case it does not appear that there is a basis for requiring further information or concluding that protected species are likely to be adversely affected [30]. Any newts using ponds in the vicinity would not be attracted to the appeal site as it does not provide suitable terrestrial habitat.
76. Protests at the site entrance could lead to disturbance to local residents, particularly given the proximity of houses, and also require a police presence [8 & 39]. Such impacts, including the effect on public resources, are capable of being material planning considerations. However, information about past protests is limited. The Police have not raised the resources issue. There is insufficient evidence to conclude that the impact of protests should be given much weight in reaching a decision.
77. I have carefully considered whether the strongly held moral and ethical objections [42] to the proposal are a material consideration in this land-use planning decision. The Courts have determined that moral considerations are not normally material to a planning decision. Separate legislation exists to control the breeding of animals for, and their use in, research. Changes in controls, taking into account European Directives, is a matter for the Government but lies outside the land-use planning regime.
78. Objectors have pointed out that the European Directive 2010/63/EU states that dogs shall where possible be provided with outside runs [43]. The proposals do not include outside runs. However, the recommendation in the Directive is not yet UK law. Moreover, the provision of runs would not be a mandatory requirement [31]. The provisions to be made for animals kept at the site,

including whether or not outside runs are included, would be a matter for the Home Office, taking into account legislation in place at the time of any application for a license in connection with the proposals. The Directive is a piece of non-planning legislation which does not need to be taken into account in the planning decision.

Conditions

79. In considering the conditions that should be imposed, should the Secretary of State decide to allow the appeal and grant planning permission, I have taken into account those suggested by the Council and the appellants' comments thereon [44 & 45] together with the advice within Circular 11/95 – The Use of Conditions in Planning Permissions.
80. A condition requiring details of the materials is necessary in the interests of the setting of the listed buildings. Further information is required on drainage [73], noise [66], plant and machinery [66] and odour management [69], taking into account the ground coverage of the buildings and their potential use. Any new lighting should also be controlled by condition [69].
81. A condition relating to reducing CO2 emissions would ensure that the development complied with Policy ENV5 of RS [13]. Conditions are needed to ensure the provision of the passing places prior to on-site construction commencing [57]. The Council's suggested condition relating to traffic management does not appear to require such works but concentrates on the carrying out of surveys. A condition requiring a Construction Method Statement could cover before and after surveys in addition to other measures to limit the impacts on the highway network and living conditions [57]. The implementation of a travel plan would follow advice within PPG13.
82. A condition relating to reinstatement of the wall is not necessary as a condition has been imposed on the listed building consent for the works [4].

Conclusions

83. Based on the information before me the impact of the development on the setting of the nearby listed buildings and the living conditions of local residents would be unacceptable. For the reasons given above the appeal should be dismissed.

Recommendation

84. That the appeal be dismissed.
85. If the Secretary of State is minded to disagree with the recommendation, the attached Annex lists the conditions that should be attached to any permission granted.

Mark Dakayne

INSPECTOR

Attached – Annex – List of Conditions

Annex – List of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Block Plan Drawing No BK/04 dated March 2011; Plans and Elevations Drawing Nos 5372-1, 5372-2 and 5372-3 dated December 2010.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including colour finish, 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) No development shall take place until details of the means of dealing with foul and surface water drainage and wash waters arising from the development have been submitted to and approved in writing by the local planning authority. The drainage works shall be carried in accordance with the approved details prior to the commencement of use of the buildings hereby permitted.
- 5) Before the development hereby permitted commences, a scheme shall be submitted to and approved in writing by the local planning authority which specifies the measures to be incorporated in the buildings for the control of noise emanating from the buildings, including any noise arising from mechanical ventilation. The measures shall be implemented prior to the commencement of use of the buildings and, thereafter, shall be in place at all times.
- 6) Details of any external plant and machinery associated with the development hereby permitted, together with details of any noise control measures associated with the plant and machinery, shall be submitted to and approved in writing by the local planning authority before its installation. The plant and machinery shall thereafter be operated in accordance with the approved details and noise control measures.
- 7) No development shall take place until details of an odour/waste management scheme have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved odour/waste management scheme.
- 8) Details of any external lighting associated with the development hereby permitted, together with measures to reduce light pollution, shall be submitted to and approved in writing by the local planning authority before its installation. Any lighting shall thereafter be installed in accordance with the approved details and measures to reduce light pollution.
- 9) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and retained as operational thereafter.

- 10) No development shall commence on the appeal site until the new passing places indicated on Drawing Nos 001, 002, 003 and 004 which accompanied the Supplementary Transport Statement dated July 2011 have been completed in accordance with the plans.
- 11) No development shall take place, including any works of demolition, until a Construction and Construction Traffic Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) delivery times for construction materials;
 - ii) traffic calming and/or safety measures on the public highway in Grimston Lane;
 - iii) temporary directional signage;
 - iv) hours of construction;
 - v) the parking of vehicles of site operatives and visitors;
 - vi) loading and unloading of plant and materials;
 - vii) storage of plant and materials used in constructing the development;
 - viii) wheel washing facilities;
 - ix) measures to control the emission of dust and dirt during construction;
 - x) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - xi) surveys of Grimston Road and Grimston Lane before and after construction; and,
 - xii) a methodology for reporting on and repairing any damage to the public highway as a consequence of the construction period.
- 12) Prior to the commencement of the development hereby permitted, a travel plan shall be submitted to and approved in writing by the local planning authority. The submitted travel plan shall include provision for the appointment of a travel plan coordinator; measures to reduce the number of single occupancy car journeys ; a timetable and targets for reducing the number of single occupancy car journeys; and measures for monitoring the effectiveness of the travel plan, including annual monitoring reports submitted to the local planning authority.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.