Allison Fox

From: Lydia Pollard
Sent: 30 October 2018 13:18
To: Melissa Tyler
Cc: Richard Tiffin; Cllr Steve Jarvis
Subject: 18/00584/FP and 18/00585/LBC Sandon bury planning application
Attachments: Questions for planning committee v2.docx

Planning Application Case Reference numbers Ref. No: 18/00584/FP **and 18**/00585/LBC
Diversification of Sandon Bury Farm to provide a wedding venue and internal alterations to Sandon Bury Farmhouse and Refurbishment of Black Barn

Despite all the discussions that have been held and the evidence so far submitted, Sandon Conservation Group still feel that there are a number of issues that need to be addressed. Attached is a list of questions and our accompanying comments on them. We would ask the Planning Committee to consider these when making their decision on the above application so we would be grateful if you would distribute the document to the planning committee prior to the meeting on 15 November 2018.

You may wish to note in particular:

1. our concerns, under question 7, regarding the requirement on the planning committee to satisfy itself that the development is consistent with the ***three*** tests of the European Protected Species Mitigation Licence process as set out in Regulations 55(2) (e), 55(9) (a) and 55(9) (b) of The Conservation of Habitats and Species Regulations 2017
2. our concerns, under question 9, regarding the implications of the newly published WHO Guidelines on Community Noise, especially those relating to leisure noise.

Many thanks.

Dr. Lydia Pollard
Planning Liaison
Sandon Conservation Group.

Sandon Conservation Group: Outstanding Questions

1. ***Is the proposal a suitable use for the Grade II* buildings given the location of the site in the centre of a remote rural village?***
   Whilst the use of a Grade II listed barn as an events venue may generally be considered as a suitable use and other barns have been similarly converted, the location of the barn is key. Other barns that have been similarly converted have been located much further away from residential properties. None of the examples quoted at the last planning meeting were anywhere near as close to residential properties. In this case, there is one residential property immediately opposite the entrance to the site, approximately 150m from the Black Barn and another one less than 25m from the Farmhouse. The church itself is less than 50m from the Farmhouse. Other neighbours are within a few hundred metres of the site and the school is about 500m from the Black Barn. The church graveyard, where funerals take place, borders the Farmhouse Gardens which will be used for wedding ceremonies and other events. Given that weddings are planned months, if not years, in advance and funerals are arranged at short notice, how will it be possible to prevent the two from interfering with each other?

   We feel that there is a distinct possibility that the venue will interfere with and have a detrimental effect on neighbours' amenities.

   CPRE Hertfordshire were not consulted about this latest application but when consulted about the previous application advised that it felt that *the Council would find it impossible to attach planning conditions that would be effective in preventing noise and lighting associated with the proposed uses from adversely affecting the local community without the construction of physical barriers that would themselves be unacceptable in this Village Character Area, Conservation Area and Archaeological Area*

   It is also perhaps noteworthy that *Historic Houses* specifically stated that it had no comments to offer on this application whereas it supported the previously withdrawn application which did not propose any internal changes to the barn.

2. ***Is there genuinely no other more suitable alternative use? Have all other suitable alternative uses been adequately considered and dismissed for good reason?***
   Little information has been given about the alternatives considered for the site and the relative costs/benefits in comparison to the Events Venue. Sandon Conservation Group did propose some alternative uses for the Black Barn but these were dismissed without an assessment. Surely it is reasonable to expect to be provided with sufficient detail on the alternative uses considered for the planning committee to assure itself that there is no other reasonable alternative use which would be more suitable for the location

3. ***How will this use co-exist with the working farmyard safely and without detriment to the farming business?***
   It is claimed that continuing with the existing farming operations is not tenable and the proposed changes will make the farming operations tenable and ensure the long term

viability of a working farmyard in the centre of the village. However, no explanation has been provided as to how the event venue will work alongside the farm and there is great concern that once the event venue is up and running, the farming side will be run down because it will be impossible for the two to work side by side. Of particular concern is the car park which uses the farmyard itself.

Given that the busiest time of year for the farmyard is summer and this is also likely to be the busiest time of year for the events venue, how will the conflict over the use of the farmyard/car park be resolved? Event venues tend to be booked some time in advance for a particular event but the precise harvesting time is weather dependent and variable from year to year.

We would also question whether the 'ugly' farmyard buildings should be destroyed. As the site is valued as a working farmyard in the centre of a village should they not be retained to show how the farmyard has evolved over time and therefore ugly or not, they too are important in the history of the farmyard?

4. ***Are the employment opportunities offered by this proposal sufficient to offset the loss of other employment caused by the change in use and will they genuinely be of benefit to villagers and those in the surrounding area?***
Within Sandon itself and within the wider area of North Hertfordshire and Hertfordshire there is very little unemployment. Opportunities for cleaners and domestic staff are regularly advertised and it can take some time to fill vacancies. Similarly skilled tradesmen are hard to find in the area and there is often a long wait until they are able to complete jobs. So it is unlikely that the employment opportunities, particularly the temporary ones at different stages, will be taken up by local people. It is claimed that the long term employment opportunities will be 6 permanent positions and up to 25 temporary ones. However no details are supplied as to what these jobs will be, whether they will be full-time or part-time and whether existing staff will be taking any of the positions. Given that the previous withdrawn application, which was drawn up on the basis that there would be 150 events a year, each up to 3 days long, estimated that it would require 9 permanent staff and up to 22 temporary staff per event, the latest job opportunities must surely be considered somewhat overly optimistic. As it is highly likely that the true number of newly created permanent jobs will be less than 6, this has to be weighed against the jobs lost by the eviction of the independent skilled trades people who occupied premises on the site now required for the events venue. Further, given that the venue is now only being used for a maximum of 225 days a year it is unlikely that very many of the new positions are likely to be full-time. Many are likely to be zero hour contracts with staff working as and when required, rather than a regular number of hours per week.

5. ***Will the proposal genuinely allow more people to view the Black Barn's interior and will these people be local?***
A major selling point for the scheme has been that it will allow more people to view and enjoy the interior of the Black Barn. However, the details of the acoustic box, provided at the previous planning committee meeting, suggest that this may not now be the case as the applicant confirmed that the acoustic enclosure would be made out of plywood

and insulation. It is difficult to understand how guests will be able to see the walls of the Barn through this.

Even if it is possible for paying guests to view the internal walls of the Black Barn, given the nature of the events likely to be held, it is likely that relatively few guests will avail themselves of the opportunity to do so and there is no guarantee that local people will be given any opportunity to view the interior despite the grant to restore the barn being given on the basis that the barn would be opened up to the local community.

6. ***How safe are the roads in and out of the village?***
The village is some distance from any main roads and accessed by narrow, winding country lanes, barely wide enough for two cars to pass each other and in places they are single track. None of them are regularly maintained and they frequently contain potholes. They do not have footpaths alongside them or any lighting. As they are surrounded by open countryside, wildlife regularly cross the roads and can appear without any warning. Residents, who know the roads around the village well and are used to driving on them, still have accidents with speeding traffic coming the other way or large wildlife suddenly running into the road. Most accidents are not reported unless someone is injured.

7. ***Can the proposal sufficiently mitigate the damage caused to the environment and, in particular, to protected species such as the bats?***
Unlike other villages in this part of North Hertfordshire, Sandon has numerous designated habitat areas close to the centre of the village and alongside the roads running into the centre, as well as a National Trail going through the centre of the village. These areas (*detailed in Sandon Conservation Group's objection letter in section 4 on pages 2 -3*) contain habitat protected under s41 of the NERC Act. Any adjacent or surrounding development is required to provide for the enhancement of such habitat, not detract from it. One such area is just outside the main entrance to the proposed venue and less than 75m from the Black Barn. Whilst some consideration has been given to the impact of the development on protected species located on the site itself, no consideration has been given to those areas outside the site which are likely to be impacted by the development.

NPPF Para 118 states "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity...
planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitats, including ancient woodland and the loss of aged or ***veteran trees*** *found outside ancient woodland, unless the need for, and benefits of, the development* ***in that location*** *clearly outweigh the loss; "*
and
"the following wildlife sites should be given the same protection as European sites: Potential Special Protection Areas and possible Special Areas of Conservation; ....."

NPPF Para 119 advises "The presumption in favour of sustainable development (paragraph 14) ***does not apply*** *where development requiring appropriate assessment under the Birds or Habitats directives is being considered, planned or determined."*

Allowing the car park to creep into the landscape conservation area and cutting down a veteran tree and other perfectly healthy trees conflicts with previous decisions on other planning applications that were refused because they were either in the heritage conservation area or outside the village boundary (sometimes only just outside). Such changes will have a major adverse effect on the visual amenity of the area as a whole by damaging the views over the surrounding countryside, it will destroy the peace and tranquillity of the area for both residents and visitors and harm the wildlife in the area, not just during the construction stage but also when the buildings are in use when the venue is up and running. If allowed, it also sets a precedence that any development will be allowed outside the village envelope and within landscape conservation areas regardless of the damage to the environment.

With respect to the protection of the bats, there is no certainty that the proposed mitigation will be sufficient, despite what Hertfordshire Ecology has advised the Planning Committee. Natural England's advice did express a number of concerns and was very much conditional (*as detailed in section 5, on pages 3 to 6 of Sandon Conservation Group's letter of objection).* Of particular concern is the fact that the dimensions for the proposed bat lofts in the Black Barn do not meet the **minimum size** required by Natural England and there is no explanation or justification offered as to why the listed status and historic importance of the Black Barn make it unacceptable to make the two bat lofts any larger or link them in any way. Natural England's Discretionary Advice said *"You should be looking to retain as much of the roost as possible but ideally the lofts should measure in excess of H2.8m x L5m x W5m.* ***The minimum size we would consider is H2m x W4m x L4m, if this was supported by justification as to why larger voids could not be created.*** As Natural England were aware of the status of the Black Barn when providing the advice, it is reasonable to assume that if they felt that the status itself was sufficient justification for the minimum size to apply, they would have said so in their advice. The fact that they have specified dimensions rather than volume indicates that there is a need to ensure that the minimum for each dimension has to be met. Further, no evidence has been provided to show how the applicants will ensure that the conditions inside the proposed bat lofts will remain suitable for breeding.

It should be pointed out that Herts & Middlesex Wildlife Trust, in their consultation response, also expressed doubts as to whether the proposed mitigation will be successful, suggested a potential alternative remedy and requested a condition be attached to any planning permission to ensure that development does not start until a mitigation licence is issued. They also advised that the Local Planning Authority must be satisfied that the development is consistent with the ***three*** tests of the European Protected Species Mitigation Licence process before reaching its decision. Natural England in its Planning Advice clearly states the duties placed on Local Planning Authorities by the Conservation of Habitats and Species Regulations and notes the case

law which clarified these duties. The advice clearly states ***that it is for the planning committee to determine the planning application in light of the three tests***.

The three tests are set out in Regulations 55(2) (e), 55(9) (a) and 55(9) (b) of The Conservation of Habitats and Species Regulations 2017 and *are* as follows:
(1) Regulation 55(2)(e) states: a licence can be granted for the purposes of "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment".

(2) Regulation 55(9) (a) states: the appropriate authority shall not grant a licence unless they are satisfied "that there is no satisfactory alternative".

(3) Regulation 55(9) (b) states: the appropriate authority shall not grant a licence unless they are satisfied "that the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range."

The LPA's Ecology Adviser has specifically stated "the *planning committee has sufficient information to deal adequately with bats from a planning perspective, and can apply and satisfy the third test of the Conservation of Habitats and Species Regulations 2017* prior *to determination."* Even if the Planning Committee accepts her advice **it still has to satisfy itself that the first two tests can be satisfied.**

8. ***What are considered to be the residential amenities of the existing residents in the village?***
Most residents of Sandon would define their amenity as a peaceful and quiet surrounding in the countryside that is relatively free of traffic and where you can hear the sounds of nature and view the open countryside.

There is no public transport at all to the village. The nearest railway station is 4 ½ miles away at Ashwell& Morden, across the A505, and the nearest towns are Royston, Buntingford and Baldock all more than 6 miles away. The only street lighting in the village is a single street light outside the school and another one at the top of Dark Lane.

In the village centre there are approximately 80 houses together with a primary school, now mainly populated with children from outside the village; the village hall and the church; as well as the farm. That is all. That said, there is virtually no unemployment within the village as those of working age tend to commute to towns and cities for work and there are always unfilled vacancies advertised on the village noticeboards for cleaners, nannies, gardeners etc. The retired and elderly tend to outnumber younger people in the village.

9. ***Can the amenities of the neighbours be adequately protected if the events venue goes ahead?***

In terms of noise, there has been much disagreement over the accuracy of the measurement of the background noise level and the assessment methods used. Environmental Health have not specified how much data they require in order to be satisfied that the measurements enable a reasonable estimate of the background noise level to be made. The Environmental Health officer has stated that on the one hand the applicant's noise assessment is acceptable when it contains only one whole 24 hrs worth of data measured some distance from the neighbouring properties, (*section 8 Noise, page 6 of Sandon Conservation Group's objection* provides a detailed breakdown of the times when raw data was collected and shows that all the others days were affected by weather and at best could only provide data for inconsistent varying limited periods) yet he dismisses SAG's Cass Allen's Noise Assessment because due to adverse weather conditions they also could only produce one whole 24hrs worth of data even though this was taken at one of the nearby residential properties! Nor has the Environmental Health officer advised which of the assessment methods he considers to be correct and why.

The Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs), which the applicant's Noise Assessment references as applicable, states: *"noise may be considered not audible or inaudible when it is at a low enough level such that it is not recognisable as emanating from the source in question and does not alter the perception of the ambient noise environment that would prevail in the absence of the source in question."*

The question is how is that determined? It is not just about how loud the noise is in comparison to the ambient noise. It is about not altering the perception of the ambient noise environment so that any additional noise is not recognised as originating from the source in question. Sandon has very little traffic travelling through it, peak traffic times tend to be around school start and finish times. So how do you ensure that the sound of traffic at other times, particularly late at night when there is normally virtually no traffic, is not recognisable? How do you ensure that the events venue does not alter the perception of the ambient noise environment? Sandon is normally very quiet. Yes there is noise associated with the school at certain times, yes there are sounds from heavy farm machinery at certain times, yes the church bells chime, yes there is noise from the wildlife but these are part of the ambient noise environment for a relatively remote small rural farming village. Noise emanating from and associated with an events venue are not.

The raw data from the Applicant's Traffic Survey shows that the existing traffic movements over the period 23.00 to 03.00 (night time) is very low especially for Saturdays and Sundays. The average over 7 days is just 2 southbound vehicles and 3 northbound. Given that the traffic assessment estimates that there will be an additional 172 traffic movements for each event it is reasonable to assume that half those movements will occur during the night time period as guests leave the venue. We don't see how all that additional traffic cannot create an adverse noise affect on villagers at that time of night when there is normally, on average just 3 cars going northbound and 2 cars going southbound between the hours of 23.00 and 03.00.

When considering what would be an acceptable noise level for neighbours and whether the noise from the venue could be considered a statutory nuisance, it stands to reason that the local environment has to be considered because there are different expectations in cities and town compared to the countryside. NHDC itself states that the definition of statutory nuisance includes *noise emitted from premises so as to be prejudicial to health or a nuisance,* and, noise *that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street*

Any noise that is above the lowest observable adverse effect limit (LOAEL) is prejudicial to health. The definition of LOAEL is that it is the lowest noise level at which some adverse effect is observed on health. So by definition, any noise above LOAEL must be regarded as a statutory nuisance. LOAELs are specified in the Noise Policy Statement for England and based on the WHO Guidelines for Community Noise. On 10 October 2018 the WHO Guidelines for Community Noise were revised downwards as a result of more research on the harmful effects of noise to health and for the first time include levels for noise from leisure activities.

In terms of road traffic noise, the Guidelines strongly recommend reducing noise levels produced by road traffic such that the average ***outside noise level*** should be no more than 53 dB Lden and the nightime outside noise level should be no more than 45dB Lnight as traffic noise levels above these values are associated with adverse health. These values should be taken into consideration for this application because they will be incorporated into the Noise Policy Statement for England and become effective before the event venue is up and running. The Guidance also states that special consideration should be given to sources of noise in an environment with a low background noise level and gives the example of such an area being night time traffic in a suburban residential area. So it is reasonable to expect levels to be even lower in tranquil rural areas such as Sandon.

The guidance on leisure noise has implications both for neighbouring residents and employees at the events venue. For average noise exposure, the Guidance recommends reducing the yearly average from all leisure noise sources (both inside and outside) combined to 70 dB LAeq,24h as leisure noise above this level is associated with adverse health effects. It suggests that the equal energy principle can be used to derive exposure limits for other time averages, which might be more practical in regulatory processes. For example, this would mean that if someone was exposed to 80dB of noise for 4 hrs, 7 days a week his/her year average exposure would be 72dB