
Appeal Decision

Site visit made on 21 September 2016

by M Seaton DipTP MRTPI

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

Decision date: 27 September 2016

Appeal Ref: APP/Y2003/W/16/3149070

Stoneledge Ltd, Middlegate Lane, Elsham, North Lincolnshire, DN20 0NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Stoneledge (South Bank) Ltd against the decision of North Lincolnshire Council.
 - The application Ref WD/2015/1527, dated 13 December 2015, was refused by notice dated 6 April 2016.
 - The application sought planning permission for the use of land for the open storage of hardcore, plant and equipment; the storage of demolition material; the crushing, grading and washing of aggregate and access; the installation of plant for the crushing, grading and washing of recycled aggregate; and a wheel-wash facility without complying with a condition originally attached to planning permission Ref WD/2015/0314, dated 21 October 2015.
 - The condition in dispute is No. 10 which states that:
Notwithstanding the details submitted, no vehicles accessing or exiting the application site shall use the access from Wold Road (C120).
 - The reason given for the condition is:
In the interests of highway safety in accordance with Policy T2 of the North Lincolnshire Local Plan.
-

Procedural Matter

1. The appellant has submitted a revised plan with the appeal documentation (Drawing No. SLE/CCK/2), which indicates the provision of a visibility splay adjacent to the access point on to Wold Road within the appeal site. It is evident on the basis of the Council's appeal statement that this additional plan has been considered by the Council, and has formed part of their assessment in defending the appeal. I am therefore satisfied that neither the Council nor any other parties would be disadvantaged if I were to also consider the plan in my decision-making.

Decision

2. The appeal is allowed and planning permission is granted for the use of land for the open storage of hardcore, plant and equipment; the storage of demolition material; the crushing, grading and washing of aggregate and access; the installation of plant for the crushing, grading and washing of recycled aggregate; and a wheel-wash facility, at Stoneledge Ltd, Middlegate Lane, Elsham, North Lincolnshire, DN20 0NU, in accordance with application Ref WD/2015/1527, dated 13 December 2015, without compliance with condition
-

No. 10 previously imposed on planning permission Ref WD/2015/0314, dated 21 October 2015, but subject to additional conditions, and the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and as set out at the Annex.

Application for costs

3. An application for costs was made by Stoneledge (South Bank) Ltd against North Lincolnshire Council. This application will be the subject of a separate Decision.

Background and Main Issue

4. The land to which the access the subject of this appeal relates is part of the former Elsham Airfield which is situated adjacent to the A15, and is occupied by Stoneledge Ltd in connection with the crushing and screening of materials, the storage of hardcore, materials and equipment, and other connected functions. The site possesses accesses from 3 separate points; from Halifax Approach to the east; from Middlegate Lane to the south (the use of which is restricted by condition No. 4 of planning permission Ref. WD/2015/1527); and from Wold Road to the west, with the use of the access restricted by a condition which is the subject of this appeal.
5. The original terms of the planning permission granted in October 2015 were that no vehicles should either access or exit the appeal site using the access from Wold Road. The appellant has indicated a desire to seek the removal of condition No. 10 to allow the use of this access, as it would remove the need for staff to have to drive through the operational recycling part of the site in order to reach the business offices. The appellant has however indicated the intention for a restriction preventing heavy goods vehicles (HGVs) from using the access to remain. In this respect, the appellant is also proposing additional conditions to 'replace' the removed condition, governing the type of vehicles that may use the access, as well as the maintenance of appropriate visibility splays.
6. As a consequence, and having regard to the submitted evidence, the main issue in this instance is whether the condition is reasonable or necessary, having regard to the effect on the highway safety of road users.

Reasons

7. At the point of the access from the appeal site, Wold Road is a comparatively straight stretch of road with a 60 mph speed limit for traffic passing the access point. I observed at the site visit that traffic on the road is relatively infrequent, but that the speeds travelled at appeared to be approaching or in the region of the speed limit from the north-east, and accelerating from the south-west. I noted that there are 3 existing access points to other commercial premises and sites on the opposite side of Wold Road, albeit that I am satisfied that given their separation and likely level of use, none of these would be in direct conflict with the proposed access to the appeal site. It is evident from the submissions that the key issue governing the Council's restriction of the use of the Wold Road access relates to whether appropriate visibility splays would be available for road users.
8. On the basis of my observations at the site visit, I am satisfied that vehicles seeking to access the site from Wold Road in either direction could do so

without there being a severe residual impact on the highway safety of other road users. In respect of vehicles exiting the appeal site, whilst I have had careful regard to the findings of the Inspector in the 2014 appeal decision, the available visibility of vehicles approaching from the south-west appeared on site to be adequate, with existing roadside hedgerows and planting set sufficiently back from the edge of the carriageway to not result in a visual encumbrance. Furthermore, I noted the speeds of vehicles travelling from the south-west to generally be lower as a consequence of traversing the junction with the B1206 and Middlegate Lane. However, in respect of the visibility of vehicles approaching from the north-east, despite my observation at the site visit that the existing field boundary hedgerow close to the access had been maintained at a level sufficient to allow adequate visibility of oncoming traffic, it is clear that without such maintenance that this would have the potential to cause visual obstruction.

9. In assessing the proposal, I have had particular regard to the technical view of the Council's Highway Team that subject to the maintenance of the visibility splays, there would be no objection to the use of the access by staff vehicles, but not HGVs. I have noted that the visibility splay to the north-east, which is shown as being within the appeal site, is indicated as being within separate land ownership, albeit that the owner of the land has given consent for the appellant to undertake road safety measures. Whilst I do not consider this assertion alone to be sufficient guarantee of the maintenance of the visibility splay, I consider that the performance of the splay and safe use of the access could be satisfactorily achieved through the imposition of a suitably worded condition governing the minimum requirements for use of the access. In this respect I have had regard to the suggested wording of such a condition as provided by the appellant. On this basis, I would accept that the maintenance of the visibility splay would ensure that staff vehicles could access and exit the site without there being an adverse impact on highway safety.
10. Whilst I have had regard to the existing use of the access by large vehicles and farm equipment in connection with the surrounding land, there is no suggestion that the access is used in this manner on anything other than an occasional basis, and I would therefore continue to agree with the conclusion that the access would be unsuitable for frequent use by HGVs or larger vehicles. I am satisfied that a condition restricting the weight of vehicles using the access in connection with the business would be an appropriate way of exercising control.
11. On the basis of the evidence placed before me, and my own observations of the access, I am satisfied that the use of the access for staff vehicles only would not result in an unacceptable adverse impact on highway safety. As a consequence, the existing condition would not be reasonable or necessary subject to the imposition of the additional conditions as suggested. I do not therefore find the proposal to conflict with saved Policy T2 of the North Lincolnshire Local Plan 2003, which seeks to ensure that all development is provided with a satisfactory access from the existing highway network. Furthermore, I consider that the use of the access in the manner proposed would be in accordance with paragraph 32 of the National Planning Policy Framework, which states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

Other Matters

12. I have taken into account the objections of interested parties on other matters including allegations of breaches of planning conditions relating to dust and wheel washing, noise levels, additional working hours, lighting, surface water run-off from the wider site, and sewage and waste water drainage. However, I do not consider these to be matters which are directly pertinent to this section 73 appeal, but I note are in many instances issues which relate to the established principles of the wider development itself, or where controls have been put in place in the form of planning conditions. On this basis, I consider these to be separate matters which may need to be addressed between the Council and the appellant, and which do not have any bearing on my decision-making in respect of this appeal.

Conclusion

13. The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 of the Act should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. I have no information before me about the status of the other conditions imposed on the original planning permission, although I note that all of the other conditions from the October 2015 planning permission have been suggested for re-imposition by the Council. I shall therefore re-impose all those that have been suggested, but in the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
14. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but with the additional conditions as suggested on the basis of the evidence placed before me by the main parties, and retaining the other relevant conditions from the previous permission.

M Seaton

INSPECTOR

Annex

Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: SLE/CCK/1, SLE/CCK/2 and OFFERTONS.
2. All drums and small containers used for oil and other chemicals shall be stored in bunded areas which do not drain to any watercourse, surface water sewer or soakaway.
3. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.
4. No vehicles shall access/egress the application site via the Middlegate Lane access.
5. The proposed wheel-wash facilities shall be provided at the Halifax Approach entrance within one month of the date of this permission. Once installed the wheel-wash facilities shall be used by every HGV exiting the site.
6. The existing vehicular access to the site from Halifax Approach shall be improved in accordance with details to be submitted to and approved in writing by the local planning authority within three months of the date of this permission.
7. Within three months of the date of this permission a scheme for the disposal of surface water, including a timetable for the implementation of the scheme, shall be submitted to and approved in writing by the local planning authority. Once approved the scheme shall be carried out in accordance with the agreed timetable and shall be retained thereafter.
8. No external lighting shall be installed on site before details of its location, height and design have been submitted to and agreed in writing by the local planning authority. The lighting shall be installed in accordance with the agreed details.
9. The hours of operation of the use hereby permitted shall be restricted to 7am to 7pm Monday to Friday.

No operation, other than maintenance, shall take place on Saturdays, Sundays or public/bank holidays.

The site shall not operate outside of these hours unless otherwise agreed in writing by the local planning authority.

10. The use of the access by vehicles associated with the development shall cease if at any time the height of the hedge along the boundary with Wold Road, as shown within the red line on the approved drawing SLE/CCK/2, exceeds 1m in height when measured from the level of the surface of Wold Road. The use of the access shall not thereafter be recommenced until the height of the hedge has been reduced to a maximum of 1m in height when measured from the level of the surface of Wold Road.
11. Once brought into operation the vehicular access from Wold Road shall not at any time be used by any vehicle having a maximum mass of 3.5 tonnes or more associated with the development.