

Appeal Decision

Site visit made on 20 December 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 3rd February 2017

Appeal Ref: APP/E3525/W/16/3155287

The Chimneys, New Road, Rougham, Suffolk IP30 9LR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Chris McKenna (The Chimneys Healthcare Partnership) against the decision of St Edmundsbury Borough Council.
 - The application Ref DC/16/0093/FUL, dated 4 February 2016, was approved on 7 June 2016 and planning permission was granted subject to conditions.
 - The development permitted is change of use from C3 (single family dwellinghouse) to C2 (residential care home) and associated D1 use (day visitor provision), with external alterations (i) elevational changes to existing garage block, (ii) erection of covered walkway linking main house with existing garage block, (iii) elevational changes to existing store and (iv) elevational changes to existing swimming pool block.
 - The condition in dispute is No 11 which states that: *"All vehicular traffic arising from visitors, staff and residents/patients to and from the site in relation to the use hereby approved, shall be via the approved access, shown on drawing number 2030_04A the specific details of which will be agreed pursuant to condition 5."*
 - The reason given for the condition is: *"To secure a safe and secure access to the approved development in the interests of highway safety in accordance with Policy DM2 of the Joint Development Management Policies Document 2015."*
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Decision

1. The appeal is allowed and the planning permission Ref DC/16/0093/FUL for the change of use from C3 (single family dwellinghouse) to C2 (residential care home) and associated D1 use (day visitor provision), with external alterations (i) elevational changes to existing garage block, (ii) erection of covered walkway linking main house with existing garage block, (iii) elevational changes to existing store and (iv) elevational changes to existing swimming pool block at The Chimneys, New Road, Rougham, Suffolk IP30 9LR granted on 7 June 2016 by St Edmundsbury Borough Council, is varied by deleting condition 11.

Background and Main Issue

2. The appeal seeks to delete the disputed condition, which is intended to direct visitors, staff and residents/patients to use the approved access off New Road in front of The Chimneys, rather than the farm track along the north side of the appeal site. The appellant contends that the condition limits their full access to their property, but the Council consider the condition is necessary and reasonable to direct the bulk of traffic generated by the change of use to the best access. Works have begun on site to implement the approved development, although the approved access has yet to be laid out and constructed.
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3. Therefore, the main issue is whether the condition is necessary and reasonable in the interests of highway safety.

Reasons

4. The appeal site benefits from two accesses. One is a driveway in front of the main building off New Road, which is due to be repositioned as part of the approved development. New Road is subject to the national speed limit of 60mph and is a narrow country lane between settlements without pavements or lighting on the stretch past the appeal site. At my mid-morning site visit, there was a regular flow of traffic, including larger vehicles such as lorries.
5. The other access is a farm track that runs along the northern edge of the appeal site and beyond to a farm business. The appellant states that they have vehicular right of way over the portion of the track which adjoins their property, and the track provides access to a yard and forecourt within the appeal site. The track has greater width past the appeal site before it narrows towards the farm. This provides room for vehicles to pass and a small amount of parking space next to the appeal site.
6. It was evident at my site visit that larger farm vehicles use the track on an intermittent basis. The owner of the track has indicated the level of farm traffic along the track which he states can be intensive at times. The appellant has not sought to dispute this statement. There is therefore a potential for conflict between farm vehicles and vehicles accessing the appeal site, with risks to highway safety.
7. However, the approved plans include 12 staff and visitor car parking spaces at the front of the main building that can only be accessed via the approved access. Condition 5 prevents the development from coming into use until the approved access is provided and requires the access to be retained in its approved form. Condition 6 requires an appropriate visibility splay to be provided at the approved access before that access is first used. Therefore, it seems likely that most of the traffic accessing the site would use the approved access and the parking in front of the main building. I also note that there is space in front of the main building for additional parking if required at a future date.
8. If, for whatever reason, visitors, staff and/or residents/patients were to use the farm track to access the site, there is some space along this part of the farm track for vehicles to pass and park. The overall level of vehicle movement to the site is not likely to be significant given the type of use approved, while the level of vehicle movement along the farm track from those accessing the site is likely to be lower still, given the provision of parking at the front of the main building. Therefore, notwithstanding the apparent intensive use of the farm track at certain times by farm vehicles, the probability and severity of any vehicular conflict would be limited.
9. I note that the existing visibility splay at the farm track access onto New Road does not provide the full visibility required for this type of road and interested parties have queried the reliability of the appellant's speed survey data given the weather conditions. However, this visibility splay is in regular use, and is reported to have provided use for occupants of the appeal site previously. As I have identified a likely limited increase in use of the farm track access arising

from the approved development, the increased risk to highway safety arising from the use of this visibility splay is correspondingly low.

10. For these reasons, the harm to highway safety arising from the use of the farm track would be limited. Therefore, condition 11 is not necessary or reasonable. The removal of the condition would not conflict with Policy DM2 of the Joint Development Management Policies Document 2015 which, amongst other things, requires development to maintain the safety of the highway network.

Conclusion

11. For the reasons given above, I conclude that the appeal should succeed. I shall vary the planning permission by deleting the disputed condition.

Tom Gilbert-Wooldridge

INSPECTOR