



Appeal Decision

Site visit made on 11 April 2019

by David Storrie DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2019

Appeal Ref: APP/A2335/W/19/3220981

2 Oxcliffe Road, Heysham, LA3 1PS

- 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 conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr James Robb, Stud Farm Caravan Park against the decision of Lancaster City Council.
 - The application Ref 18/01333/VCN, dated 16 October 2018, was refused by notice dated 11 December 2018.
 - The application sought planning permission for the erection of a dwelling (C3) and detached garage without complying with a condition attached to planning permission Ref 18/00048/FUL, dated 12 March 2018.
 - The condition in dispute is No 7 which states that: Before occupation of the dwelling the existing access onto Oxcliffe Road shall be physically and permanently closed and the existing verge/footway and kerbing of the vehicular crossing shall be reinstated in accordance with the Lancashire County Council Specification for Construction of Estate Roads (concurrent with the formation of the permanent access onto Oxcliffe Avenue).
 - The reason given for the condition is: To limit the number of access points to, and to maintain the proper construction of the highway.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The appeal relates to condition no. 7 of planning permission 18/00048/FUL. I am aware that a subsequent planning application was submitted as a result of a number of changes to the design of the proposed dwelling under application reference 18/01263/FUL. The appeal was lodged prior to the determination of application 18/01263/FUL that was subsequently granted with a similar condition requiring the closure of the vehicular access fronting Oxcliffe Road.
3. For the avoidance of doubt my consideration of the appeal is in respect of condition no. 7 of application 18/00048/FUL.

Main Issue

4. The main issue is the effect of the development on pedestrian and highway safety.

Reasons

5. Section 73 of the Town and Country Planning Act 1990 allows for the consideration of development without complying with conditions subject to which a previous planning permission was granted. The appeal site fronts Oxcliffe Road, the B5273 and lies between Oxcliffe Avenue and Haydock Grove. The area is residential in character.
6. At the time of my site visit the approved dwelling was substantially complete but not occupied. Prior to this development the site had been vacant for many years with the last use being a restaurant on the site some ten years ago. I am informed that access to the restaurant was directly on to Oxcliffe Road from an access in the south-east corner of the site adjacent to Haydock Grove. That access is still in place.
7. The approved dwelling has a detached garage to the rear that takes access off Oxcliffe Avenue and provides the off-street parking provision for the property. The appellant wishes to retain the existing access on to Oxcliffe Road to cater for visitors and deliveries to the property and makes the point that the main entrance to the property fronts Oxcliffe Road.
8. The existing access fronting Oxcliffe Road is very close to the access to Haydock Grove such that there would be potential for conflict where vehicles were to be entering or leaving at the same time. Evidence from the appellant estimates that traffic movements from Haydock Grove are likely to be in the region of 5 vehicle movements per hour over an 18-hour day given that it serves only 17 small/medium sized dwellings. The same figure is suggested for the existing access fronting Oxcliffe Road although it is suggested that it is likely to be less given it would be to cater for visitors and deliveries only. The Council have not challenged these figures.
9. Whilst traffic movements from both access points might be relatively low, there would still be the potential for conflict that would not be in the interest of pedestrian and highway safety. Accident data presented by the Council shows 13 collisions on Oxcliffe Road itself between Heysham Road (A589) and the railway and a separate 6 collisions at the junction of Heysham Road and Oxcliffe Road some 50 metres to the west of the appeal site over the last 5 years. Whilst these accidents were not outside the appeal site, they nevertheless highlight accidents on the road close to the site. At the time of my site visit, in the middle of the day, I observed a constant flow of traffic in both directions across the front of the site.
10. The appellant suggests that the access would be secondary for visitors and deliveries only although this would be difficult to control. There is no requirement from the Council for a secondary access and they consider the parking needs of the site are fully met off Oxcliffe Avenue. Whilst I can understand the appellant's desire to retain the access, I am not convinced that it is essential. I did not see any on-street parking restrictions evident in front of the site so visitors or delivery vehicles could park there when visiting the site. Whilst this could impede visibility for vehicles exiting Haydock Grove, such parking is likely to be short-term.
11. Notwithstanding this, the potential for vehicular and pedestrian conflict, however small, is a concern where accident data over the last 5 years show a high number of collisions near the site. I consider that adding the potential for

further conflict between vehicle movements and pedestrians would not be in the interests of pedestrian and highway safety.

12. I note the historical use of the access to serve previous commercial and residential uses on the site, but the last use was some ten years ago. Since then, whilst both parties have provided no specific data, traffic flows are likely to have increased in terms of both vehicles and cyclists. The appellant asserts that traffic levels may have reduced due to the opening of the Bay Gateway taking traffic away from the area. Whilst I have no evidence before me on traffic volumes over the last ten years where comparisons could be made, I must judge the appeal on the evidence before me and from what I saw on my site visit. I therefore give limited weight to the historical use of the site over some ten years ago.
13. I also note that there are a number of residential properties nearby fronting Oxcliffe Road that have direct access where vehicles may have to reverse into or out of the drives. I have no information on the planning history of these properties or how they were assessed with regards to highway matters. Notwithstanding this, I must consider the appeal on its individual planning merits.

Planning balance and conclusion

14. The parking requirements of the development are fully met with the garage and off-street parking accessed off Oxcliffe Avenue. Whilst I can understand the appellant's wish to have on-site visitor/delivery parking spaces adjacent to the front door of the property it is not essential and could give rise to unacceptable conflict with pedestrians and vehicles leaving or entering Haydock Grove.
15. I therefore conclude that the retention of the access on to Oxcliffe Road would be detrimental to pedestrian and highway safety. This would conflict with policies DM22 and DM35 of the Lancaster District Local Plan (2014) that, amongst other things, set out parking standards for new development and that developments incorporate suitable and safe access to the existing highway network. The decision would also be consistent with paragraph 109 of the National Planning Policy Framework that says development should only be refused on highway grounds if, amongst other things, there would be an unacceptable impact on highway safety.
16. For the above reasons the appeal is dismissed.

David Storrie

INSPECTOR