
Appeal Decision

Site visit made on 22 August 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 4TH October 2019

Appeal Ref: APP/H0738/W/19/3230035

Land South East of Drummoyne, Durham Road, Thorpe Thewles TS21 3JB

- 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 Mr M Foley against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 18/2046/FUL, dated 3 September 2018, was refused by notice dated 27 February 2019.
 - The development proposed is a hay and storage barn and a new access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues arising in the appeal are:
 - the effects of the proposed access arrangements on the safety of highway users; and
 - whether the proposed development is of an appropriate scale in the countryside.

Reasons

Highway safety

3. The appeal site adjoins the A177 Durham Road that runs north west from Stockton on Tees to the A689 near Sedgefield. The parties agree that, as a major road, Highways England's Design Manual for Roads and Bridges ('DMRB') is applicable to the appeal proposal, seeking as it does to take access directly from the A177. Sections of the DMRB have recently been superseded by CD123, including sections TD41/95 and TD42/95 to which the parties have referred.
4. The proposed access would adjoin the undulating A177 at a point where the A177 consists of single carriageways in each direction. The speed limit is 50mph. The proposed access lies adjoining, and south east of, a direct access to the farm at High Middlefield, and almost opposite a direct access to Howden Hall. A bus stop lies to the north west just beyond the access to High Middlefield. A further bus stop lies opposite beyond the access to Howden Hall, currently serving the hourly X22 service between Peterlee and Middlesbrough.

5. The appellant suggests that the proposed access would meet the definition of a 'direct access' in CD123 but the Council suggests that it would not, because it would meet the Old Durham Road. However, it does not appear from the information before me that the proposed access would necessarily connect any land beyond the appeal site to the A177, and it therefore appears to amount to a 'direct access' as defined in CD123.
6. Having regard to these facts, CD123 sets out relevant standards that include:
 - Direct accesses should be avoided where possible (2.29.1)
 - Direct accesses on single carriageway roads should not be positioned facing each other (2.29.2)
 - Direct accesses shall not be provided at locations where the major road gradient is greater than 4%.
7. Having regard to the first of these factors, the appeal site is presently accessed from an access road behind High Middlefield Farm that runs alongside the A177 for much of its length before meeting the old Durham Road south east of Thorpe Thewles, where access to the A177 is presently taken. The appellant explains that this access is inconvenient. It is too narrow to permit a large horsebox. It is sometimes blocked. Emergency services are stated to have said that they could not have accessed the site using this access. I accept that these factors reduce the attractiveness of the existing access, which is at the end of a narrow lane shared by a number of properties and involves some tight corners. Nonetheless its use is not impossible, and is required by an existing planning permission relating to the appeal site. In these circumstances I find that it is possible to avoid taking a direct access onto the A177, as the DMRB CD123 advises.
8. The proposed access lies almost directly opposite the entrance to Howden Hall, which, although offset by a few metres, would amount in my view to accesses that would be 'facing' each other. The DMRB advises against creating a new access in this position. The Council also consider that the proposed access may create confusion for drivers accessing either this site or High Middlefield Farm, and result in abortive manoeuvres to the detriment of highway safety. The appellant considers that this is unlikely, because the low number of proposed users will be familiar with the accesses. However, the prospect for unfamiliar site delivery vehicle users, and users of the guest house accommodation nearby, to become confused cannot be discounted, and I share the Council's concerns.
9. The appellant has submitted a technical drawing with his appeal statement to show that the road gradient in the area of the proposed access is 3.68%. I have no reason to disagree with this and therefore this standard of DMRB would be met.
10. The parties dispute whether the proposal amounts to the creation of a new access. It appears that an access was created in 2008 and subsequently stopped up by the Local Highway Authority. The appellant purchased the site in 2017, and it is a matter of controversy when the access was reopened. Nonetheless, it is not disputed that the proposed access arrangements require planning permission.

11. Although the access may have been put to some prior use without incident, I have no evidence as to the extent or frequency of any previous use, or of the vehicle types involved. Therefore I give little weight to the apparent safety record of the proposed access. In my view the advice in the DMRB should prevail, and the proposed access is contrary to the advice in the National Planning Policy Framework ('the Framework') at paragraph 108 that safe and suitable access to the site should be achieved for all users, and in paragraph 109 that development should be refused on this ground where there would be an unacceptable impact on highway safety.

Scale of the proposed development

12. The proposal is for a 'hay and storage barn' which is explained, although not expressly part of the subject application, to relate to the site's existing lawful use for 'horsiculture'. At the time of my site visit some apparently unrelated items, mainly logs and equipment associated with the appellant's specialist tree business, were being kept on the site. At the time of my visit there were storage containers in situ, containing various equine-related items.
13. Paragraph 170 of the Framework counsels local planning authorities to recognise the intrinsic beauty of the countryside, and Local Plan Policy SD5 reflects this by supporting countryside development that is of an appropriate scale. No landscape or visual objection is raised to the proposal. There is however a policy objective not to develop more of the countryside than is necessary, which is reflected in Local Plan Policy SD5 paragraphs 1(e) and h(iv) and its overall objective of conserving and enhancing the natural environment.
14. The application plan shows a floor plan of the building, covering a little more than 60 sqm, with an illustrative layout of its contents. These include the annual haylage, 4 horse carts, and room for a horsebox, trailer and tractor. As the appellant points out, the building would be expected to be used additionally for smaller items such as fuel and hand tools. Based on this layout I do not consider that the building would be inappropriately large for what is proposed.
15. However, I am mindful that the appellant states that the larger horsebox cannot be brought on to the site using the existing access (and the Council's delegated report records that the horsebox and traps were stored elsewhere). Because the proposed access is not acceptable, I cannot be confident that the horsebox would be stored on the appeal site or therefore that a building of the size proposed would reasonably be required. I therefore find that it would conflict with the requirement of Policy SD5 to conserve the natural environment by supporting buildings only of an appropriate scale.
16. I find no conflict with Policy SD8 which, although mentioned in the Council's notice of refusal on this issue, is not analysed in the Council's delegated report or appeal statement. Were I to conclude otherwise on this issue, however, it could not overcome the objections to the proposed access arrangements in this composite proposal.

Conclusion

17. For the above reasons I consider that the proposed access arrangements would result in an unacceptable risk to the safety of highway users and thus conflict with advice in the Framework.

18. As a consequence of this, the continued use of the existing access arrangements means I cannot be confident that the proposed building would be used as its illustrative layout suggests. It would therefore be of an inappropriate scale, contrary to Local Plan Policy SD5. As the proposal conflicts with the development plan for the area and with Government policy as expressed in the Framework, the appeal is dismissed.

Laura Renaudon

INSPECTOR