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## Appeal Decision

Site visit made on 21 October 2019

**by Laura Renaudon LLM LARTPI Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> November 2019**

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**Appeal Ref: APP/D2510/W/19/3233610**

**Mill Hill Farm, Youngers Lane, Burgh le Marsh PE24 5JQ**

- 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 A Z Property against the decision of East Lindsey District Council.
  - The application Ref S/023/01858/18, dated 15 September 2018, was approved on 21 January 2019 and planning permission was granted subject to conditions.
  - The development permitted is the erection of 2 no. detached warehouse buildings divided into 3 no. units to use under Class B8: Storage & Distribution of the Town and Country Planning (Use Classes) Order 1987 as amended, relocation of 4 no. storage containers and provision of additional hardstanding area.
  - The condition in dispute is No 8 which states that: *No part of the development hereby permitted shall be occupied before the works to improve the public highway (by means of one number passing place) have been certified complete by the Local Planning Authority.*
  - The reason given for the condition is: *To protect the safety of the users of the public highway and users of the site. This condition is imposed in accordance with SP22 of the East Lindsey Local Plan and paragraph 108 of the National Planning Policy Framework.*
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### Decision

1. The appeal is allowed and the planning permission Ref S/023/01858/18 for the erection of 2 no. detached warehouse buildings divided into 3 no. units to use under Class B8: Storage & Distribution of the Town and Country Planning (Use Classes) Order 1987 as amended, relocation of 4 no. storage containers and provision of additional hardstanding area at Mill Hill Farm, Youngers Lane, Burgh le Marsh PE24 5JQ granted on 21 January 2019 by East Lindsey District Council, is varied by deleting condition No 8.

### Main Issue

2. The main issue is whether condition No 8 is necessary to protect the safety of users of the public highway and users of the site.

### Reasons

3. Mill Hill Farm lies towards the eastern end of Youngers Lane, a narrow road of over a mile in length, connecting Everingtons Lane to the east and Ingoldmells Road to the west, north of the main A158 Skegness Road. The landscape is largely flat and for the most part visibility along the lane is very good. In the vicinity of the appeal site this is less so, with turns in the road in both directions. A deep drainage ditch lies to the south of the road to the west of the appeal site.

4. For the most part the carriageway is unfenced, with telegraph poles in the verges indicating the possible extent of the highway. A number of properties and field entrances adjoin the road, with the result that for almost its entire length the visibility field of drivers includes informal passing places. The most notable exception is a short stretch to the west of the appeal site, where the road is bound to the south by the deep drainage ditch.
5. A lawful development certificate has been issued confirming the lawful use of the site as a warehouse and the containerised storage of non-food retail goods, by reason of the passage of time since the inception of the use without enforcement action having been taken. The present planning permission authorises the replacement of most of those containers with 2 detached warehouse buildings. Traffic movements to and from the site in connection with the lawful storage use are unrestricted, but are said to include the order of 48 HGV movements per annum. The proposed development would increase the number of such movements to 104. Van movements are envisaged to increase slightly, from 3 per week to 3 or 4.
6. Youngers Lane is undoubtedly too narrow for 2 HGVs to pass safely without mounting the highway verge or one of the unofficial passing places that presently exist. The local highway authority and the Council seek a passing place to be provided as a condition of the development that has been permitted. No details of the proposed passing place have been provided and its location has not been identified.
7. The appellant describes its core business as being the non-food retailing of goods via outlets in the coastal shopping hubs of Skegness, Ingoldmells and Chapel St Leonards. These locations are all to the east of the appeal site. It is not stated where the goods are imported from prior to distribution to these outlets. The appeal site lies approximately at the centre of a 'loop' of minor roads connecting to the A158 Skegness at two points, one south east and one south west of the appeal site. It appears that vehicle deliveries from the site to the retail outlets would be likely to travel in an easterly direction, or south easterly if connecting to the A158. The position on deliveries to the site is uncertain.
8. The Council cites support from *Manual for Streets* ('MfS') for its contention that a passing place is required, with the supporting text to Policy SP22 of the East Lindsey Local Plan Core Strategy of July 2018 stating that the Council will take its guidance on street design from MfS. Whilst MfS is primarily directed at new residential streets, it is also applicable to existing residential streets subject to redesign. It states that its focus is on lightly-trafficked residential streets, but that many of its key principles may be applicable to other types of street, for example high streets and lightly-trafficked lanes in rural areas.
9. No advice in the document relates specifically to passing places, but section 7.2 addresses the question of street dimensions, including carriageway widths. The design of new streets or the improvement of existing ones should take into account the functions of the street, and the type, density and character of the development. Carriageway widths should be appropriate for the particular context and uses of the street. Key factors to take into account include the volume of vehicular traffic and pedestrian activity, and the traffic composition.
10. Figure 7.1 of MfS illustrates what various carriageway widths can achieve by way of vehicles passing. Passing places on this approximately 4.5m wide road

would be desirable to allow HGVs to pass cars or larger vehicles. In the case of smaller vehicles, a number of unofficial passing places presently exist. A larger passing place exists outside the entrance to BDH Limited and Sunnydale. Whilst, especially if 2 HGVs were to meet, an official passing place would undoubtedly be desirable, I do not consider that the Council have shown why it would be a necessary or proportionate requirement of the particular development that has been permitted.

11. In this I am mindful of the current unrestricted traffic resulting from the development certified as lawful on the appeal site; the proposed increase in HGV movements of just over 1 a week; and the lack of an identified location for the proposed passing place, meaning that (together with the absence of information as to the usual direction of travel of HGVs to and from the site) I cannot be satisfied that the passing place would serve to mitigate the traffic impacts of this particular development. I am also mindful that the road is lightly trafficked, and for the most part there is ample visibility to allow avoiding action to be taken including not only mounting the highway verge but also using the existing field entrances and other unofficial passing places.
12. The Council's reason for imposing Condition No 8 was *to protect the safety of users of the public highway and users of the site*. It has not been demonstrated that the continued use of the existing arrangements would come to be unsafe as a result of the development, or how the as yet unidentified location of a passing place would ameliorate such safety concerns.

### **Conclusion**

13. For these reasons I do not consider that the condition is reasonable or necessary, or supported by the local development plan for the area. The appeal is allowed and the permission varied so as to delete Condition No 8 requiring a passing place to be provided.

*Laura Renaudon*

INSPECTOR