



Appeal Decision

Site visit made on 27 October 2020

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2020

Appeal Ref: APP/F2415/W/20/3256962

Sutton Hill Farm, Coventry Road, Broughton Astley LE9 6EY

- 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 Stephen Walker against the decision of Harborough District Council.
 - The application Ref 20/00162/FUL, dated 31 January 2020, was refused by notice dated 20 March 2020.
 - The development proposed is dog walking/exercise area and associated development.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have removed the word '(Retrospective)' from the description of the proposal as this is not a description of development. However, the change of use of the site has already taken place and I have therefore determined the appeal on the basis that planning permission is sought retrospectively.

Main Issues

3. The main issues are:
4.
 - the effect of the development on highway safety on the B4114; and
 - whether or not the development would preserve the safe and active use of neighbouring Public Rights of Way.

Reasons

Highway safety

5. The highway mitigation measures at the site entrance, that are required in association with the auction house and storage and distribution planning permissions which use the same access point, had not been implemented at the time of my site visit. The evidence before me indicates these measures relate to the closure of the gap in the central reservation which faces the access point and the provision of an acceleration and deceleration lane on the B4114. The fact that it has been previously established through these permissions that these works are necessary to accommodate an intensification of use of the access point is a matter to which I attach substantial weight in my assessment.

6. The Council has confirmed that the mitigation measures still require the technical approval of the Highway Authority. The timescales within which these measures are likely to be delivered are therefore uncertain. Furthermore, the delivery of these works could not be reasonably enforced through this appeal. I must therefore determine the proposal on the basis of the existing relationship between the access point and the B4114.
7. As with the previous appeal, my attention has been drawn to eight personal injury collisions (PIC) within 500 metres of the site since July 2015. These include a serious PIC incident which involved a vehicle attempting to turn right from the proposed access point onto the northeast bound carriageway utilising the gap in the central reservation. I noted at the time of my site visit that the gap in the central reservation remained in situ, appeared to have been recently resurfaced and that there was nothing to prevent vehicles from entering this part of the road. Any further intensification of the access point has the potential to further increase the number of drivers that may be tempted to attempt a right turn when exiting the site.
8. The Highway Authority has confirmed that it recently introduced a reduction in the speed limit to 50mph to the section of the B4114 where the access point is located. I acknowledge that the traffic count data and vehicle speed survey conducted by the Highway Authority, which indicated that the road was of a high speed and heavily trafficked nature, was collated prior to the existing speed limit coming into force. Even so, the appellant has not provided any more recent evidence to demonstrate that average vehicle numbers have reduced significantly, that the new speed limit has been effective nor that this alone would negate the requirement for the yet to be implemented mitigation measures to accommodate an intensification of the access point.
9. The appellant contends that the proposed use has been in operation since January 2019 and there have been no recorded PIC incidents since. They also suggest that the hours of operation could be restricted to ensure that the facility is not in operation during the hours when auctions are being held. Nevertheless, the proposal would still result in an overall increase in vehicle movements over and above previously permitted levels. In the absence of the highway mitigation measures associated with previous planning permissions, I am not persuaded that a further intensification of the use of the access point could be accommodated without unacceptably increasing the level of risk of accidents occurring.
10. I conclude that the development has the potential to increase levels of risk for road users on the B4114, to the detriment of highway safety. Consequently, in that regard, the development conflicts with those parts which require that developments are served by safe access arrangements within Policy GD8 (Good design in development) and IN2 (Sustainable Transport) of the Harborough Local Plan (2019) (LP) and the Framework. For these reasons, the proposal would also conflict with section IN5: Our access to the road network policy of the Leicestershire Highway Design Guide.
11. The appellant has referred to Policy T1 (Transport and Traffic Management) of the Broughton Astley Neighbourhood Plan 2013 – 2028 within their statement of case. I note that the objective of this policy is to reduce the reliance of private cars by providing viable alternative ways of moving around the village. I therefore do not consider this particular policy to be pertinent to my

site-specific highway safety concerns in this instance and it does not alter my conclusion.

Public footpaths

12. Public Rights of Way (PROW) W47 and V60 sit in close proximity to the site. The relationship between the dog walking / exercise area and the PROWs has not changed since the previous appeal insofar as the perimeter fence on the appeal site remains in situ. The retention of the fence could be made a condition of any planning permission and I therefore remain of the view that the safety of users of the PROW is unlikely to be at risk.
13. The perimeter fence is set away from the north eastern boundary of the site with the PROW to the north east. However, the evidence before me indicates that the earth mound which sits between the fence and the PROW is unauthorised and its retention would not be supported by the Council. I am concerned that a condition requiring retention of the earth mound would be harmful to the prevailing open character and appearance of the area and would therefore be inappropriate. Therefore, the earth mound cannot be relied upon for the purpose of preserving the safe and active use of the PROW.
14. Without the earth mound, I consider it likely that there would be a significantly increased level of perception between the respective users of the PROW to the north east and dogs being exercised or walked on the appeal site. In those circumstances, there would be an increased likelihood that dogs on the appeal site would be agitated and would bark at passers-by. This would be likely to be intimidating for some users of the PROW having a potentially detrimental impact on the enjoyment and active use of the PROW.
15. In order to mitigate the identified impact, any screen planting in place of the earth mound would need to be substantial both in terms of its height and depth and would be likely to take a considerable length of time to establish. Furthermore, without evidence to demonstrate otherwise, I am not persuaded that a substantial landscape scheme would have an acceptable effect on the open character and appearance of the countryside. The appellant suggests that there would be nothing to stop the landowner implementing such a scheme in any event. However, I am not convinced that the landowner would go to the expense of a substantial landscaping scheme unless this was required by planning condition. I therefore attach limited weight to this argument.
16. In terms of any development in close proximity to a PROW having some inherent risk, for the reasons already set out, it is the specific nature of the proposal and its propensity to have a detrimental impact on the environment within which the PROWS are experienced which has been persuasive in this instance. The absence of evidence to demonstrate that the proposal has negatively impacted on the use of the PROWs does not on its own convince me otherwise, given this is based on the current site circumstances which include the intervening earth mound.
17. I conclude that the development has the potential to reduce the active use of the neighbouring PROWs. Consequently, in that regard, the development conflicts with Policies GD8 (Good design in development), GI1 (Green Infrastructure Networks) and IN2 (Sustainable Transport) of the LP and Policy EH1 (Environment Heritage and Open Spaces for Protection) of the Broughton Astley Neighbourhood Plan which amongst other things require that

long-distance recreational paths are safeguard and where possible enhanced by ensuring that development does not compromise their integrity or value.

Conclusion

18. For the reasons given, the appeal is dismissed.

M Russell

INSPECTOR