



Appeal Decision

Site visit made on 1 February 2021

by Alison Partington BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2021

Appeal Ref: APP/F1040/W/20/3261374

Land West of Derby Road, Melbourne, Derby, DE73 8DE

- 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 Steven Moody against the decision of South Derbyshire District Council.
 - The application Ref DMPA/2020/0494, dated 13 May 2020, was refused by notice dated 21 August 2020.
 - The development proposed is the change of use from agricultural to equine use and creation of an access track.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural to equine use and creation of an access track at land west of Derby Road, Melbourne, Derby, DE73 8DE in accordance with the terms of the application, Ref DMPA/2020/0494, dated 13 May 2020, subject to the conditions set out in Annex A.

Procedural Matter

2. The application was made in the name of Miss Olivia Foster (Fisher German LLP) whereas the appeal is made by Mr Steven Moody. It has been confirmed in writing that the former was in fact the agent acting on behalf of Mr Moody at the application stage and that in this respect they incorrectly completed the application form.

Main Issue

3. The main issue in the appeal is the effect of the proposal on highway safety.

Reasons

4. The appeal site is an agricultural field. Vehicular access to the field is by a grass track from Derby Road, a relatively busy road linking Melbourne to the A50 and to Derby. The access is located on the outside of a bend in the road. Due to this and the vegetation and boundary treatments on either side, visibility at the access is substandard.
5. It is proposed to use the field for grazing the appellant's own horses. No stabling or livery is proposed. The single owner and the lack of stabling reduces the necessity to visit the site but nonetheless, for good animal husbandry the proposed use could be expected to generate at least one visit to the site a day.
6. The site at present does not appear to be being used for agricultural or any other purpose and so generates very limited vehicular traffic to and from the site. Nevertheless, as agricultural land it could be used for the grazing of

animals such as cows or sheep. Given any such animals would not be in sight or sound of the farmer/owner, on the basis of good animal husbandry, it could be anticipated that using the land in this way would generate at least one visit a day to the site.

7. At times, whatever animal is grazing, it could be necessary to move the animals on or off the site or for vets to come and visit. The former would require the use of a larger vehicle, trailer or horse box. However, overall, in these respects, I consider the use of the land for equine rather than agricultural purposes would not generate significantly more vehicular movements.
8. Consequently, I consider that the proposed use of the field for equine rather than agricultural purposes would not result in a significant intensification in the use of the access track or the junction of it with Derby Road. An area of hardstanding within the field would also ensure vehicles could turn so it would be possible for them to enter and exit the site in forward gear.
9. In the light of this, although visibility at the junction is substandard, I consider the proposal would not be detrimental to highway safety. Accordingly, there would be no conflict with Policy INF2 of the South Derbyshire Local Plan Part 1 (adopted June 2016) which requires that developments do not have an undue detrimental impact on highway safety.

Other Matters

10. Whilst the site can be seen from a nearby road and footpath the use of the land for grazing horses would not be out of keeping in this rural setting. In addition, as I have concluded the use would not generate significantly more trips to the site than if it was used for grazing other animals, the proposal would not have an unacceptable impact on the living conditions of the nearby houses whose gardens can be seen from the access track. As the field is simply to be used for the grazing of horses, there is no need for power to be provided to the site, and the waste created would be no more significant than if sheep or cows used the land.

Conclusion and Conditions

11. For the reasons set out above, I conclude the appeal should be allowed.
12. In addition to the standard implementation condition, to provide certainty it is necessary to define the plans with which the scheme should accord. Taking into account my reasoning above, for highway safety reasons conditions are necessary to ensure that: any gate across the access is set a sufficient distance from the highway; an area of hardstanding is provided on the site so vehicles can turn; no stabling or livery services are provided on the site; and that the site is only used for horses owned by the appellant. However, given the limited vehicle movements the use will generate and the access can already be used for agricultural purposes I consider the condition suggested by the Council that the first 6m of the track should be provided with a solid surface is not necessary.
13. A condition to ensure the proposal does not impact on the public footpath that crosses the access track is necessary to ensure the public footpath is maintained for users. As the site lies in the National Forest and is visible from

the public realm, a condition landscaping is provided on the site is reasonable and necessary.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Dwg No KJ3050/01 Rev B; and Visibility Splays and Location Plan Dwg No 126281-001.
- 3) Any gates across the access track shall be set back at least 12m into the site from the public highway and open inwards.
- 4) Prior to the site first being brought into use for the use hereby permitted, space shall have been laid out within the site in accordance with a scheme first submitted to, and approved in writing by, the local planning authority for the parking and turning of vehicles so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for those purposes.
- 5) There shall be no permanent stabling or structures placed within the site boundaries and no livery services shall be provided on the site.
- 6) The permission for equestrian use at the site shall be for the benefit and use of the appellant's family's horses only and for no other person.
- 7) There shall be no obstruction or alteration of alignment of the public footpath, Melbourne FP6, which runs across the access track. The proposed surface material shall be laid so as to finish level with the ground either side of the track.
- 8) Prior to the site first being brought into use for the use hereby permitted, a scheme of soft landscaping shall be submitted to, and approved in writing by, the local planning authority. The scheme should evidence compliance with British Standard (BS) 3936: 'Part 1 - Specification for trees and shrubs', BS3969 - 'Recommendations for turf for general purposes' and BS4428 - 'Code of practice for general landscape operations (excluding hard surfaces)'. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding seasons following the site being brought into use; and any plants which within a period of five years (ten years in the case of trees) from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period.