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## Appeal Decision

Site Visit made on 29 June 2021

**by Graham Wyatt BA (Hons) MRTPI**

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

**Decision date: 16<sup>th</sup> July 2021**

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**Appeal Ref: APP/U2615/W/21/3268171**

**The Bungalow, Porters Loke, Burgh Castle, Great Yarmouth NR31 9PX**

- 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 Mrs Tanya Docwra-Smith (Midspirit Discount Equestrian) against the decision of Great Yarmouth Borough Council.
  - The application Ref 06/20/0186/F, dated 3 March 2020, was refused by notice dated 3 August 2020.
  - The development proposed is described as a "24ft x 12ft wooden shed for equestrian retail shop".
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### Decision

1. The appeal is allowed and planning permission is granted for 24ft x 12ft wooden shed for equestrian retail shop at The Bungalow, Porters Loke, Burgh Castle, Great Yarmouth NR31 9PX in accordance with the terms of the application, Ref 06/20/0186/F, dated 3 March 2020, subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Colour Site Plan @1:1250, OS Colour Block Plan @1:500 and Block Plan with Site and Floor Area Figures.
  - 2) The premises shall only be open for customers between the following hours: 0900 – 1900 on Mondays – Saturdays and 1100 - 1600 on Sundays and Bank Holidays
  - 3) The building hereby permitted shall be used for A1 (shops) use, selling equestrian goods only and for no other use.

### Preliminary Matters

2. The development has already been carried out. I have dealt with the appeal on the basis that permission is sought to retain what has already been built.
3. In accordance with paragraph 4 of the Regulations<sup>1</sup> I have determined the appeal with reference to the Use Classes Order 1987 as the application was submitted prior to 1 September 2020.

### Main Issue

4. The main issue in this appeal is the effect of the proposed development on highway safety.

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<sup>1</sup> The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

## Reasons

5. The appeal site lies at the end of Porters Loke and has an access onto Butt Lane which is the subject of a local 30mph speed limit. The Council argue that the access from Porters Loke does not have adequate visibility splays and thus is dangerous to traffic exiting onto or from Butt Lane, which would be exacerbated through the increased use of the access by visitors to the equestrian shop.
6. The Council confirm that visibility to the northwest has been improved and is acceptable in that direction only. However, visibility in the opposite direction, to the southeast, cannot be improved as a result of fencing and private gardens affecting the required splays. Moreover, cars parking on Butts Lane close to Porters Loke also hinder visibility in that direction.
7. The Council accept that the access has not been the subject of any recent recordable accidents. Whilst I acknowledge the Council's argument that the absence of incidents does not necessarily indicate that the access is safe, one must accept that, even accounting for the speed and amount of traffic on Butts Lane and the reduced visibility in both directions, the access is nonetheless being used by vehicular traffic to serve those that live on Porters Loke and the appeal site without recorded harm to highway or indeed pedestrian safety.
8. Moreover, I have not been made aware that there are any restrictions on the type and size of vehicle that may use Porters Loke to access onto Butts Lane. Furthermore, I find that the unmade nature of Porters Loke and the limited visibility to the southeast of the access would naturally be conducive to drivers exiting the appeal site slowly and using caution. Therefore, I do not agree with the Council that any increase in vehicular use of the site is unacceptable and that the inability to provide visibility splays in accordance with the MfS<sup>2</sup> standards would result in material harm to the safety of vehicular and pedestrian users of the access. As such, the objective standards in MfS are not determinative.
9. With all the above factors in mind, and taking into account appeal 3158318<sup>3</sup>, I am not persuaded that the failure to meet the MfS visibility splay standards in this instance would result in highway danger such that it would warrant withholding permission for the appeal proposal. Thus, the development would not result in harm to highway safety. It would not be in conflict with Policy CS16 of the Great Yarmouth Borough Council Local Plan: Core Strategy 2015 which seeks, amongst other things, to ensure that developments do not have an adverse impact on the safety and efficiency of the local road network.

## Conditions

10. The Council has suggested a number of conditions that I have considered in accordance with the National Planning Policy Framework (the Framework) and the national Planning Practice Guidance. As the development has already been carried out there is no requirement for the standard time condition. The approved plans should be specified to provide certainty.
11. The Council suggest that the use of the building should be restricted to that as specified within the application form. As the development seeks a retail use, in

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<sup>2</sup> Department for Transport: Manual for Streets (MfS)

<sup>3</sup> APP/U2615/W/16/3158318

the interest of neighbour amenity, I do not find it unreasonable to restrict the building to an A1 (shops) use, selling equestrian goods only and to the hours as requested on the application forms.

12. The Council state that a further condition should be imposed restricting the number of visitors to the site. However, there is nothing before me suggesting what the vehicle numbers should be restricted to or how this would be enforced. As such, in accordance with paragraph 55 of the Framework, I do not find this particular condition to be precise or enforceable.

### **Conclusion**

13. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is allowed.

*Graham Wyatt*

**INSPECTOR**