



Appeal Decision

Site visit made on 18 January 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2022

Appeal Ref: APP/N3020/W/21/3283174

Ramper Covert Wood, Mansfield Road, Arnold, Nottinghamshire NG5 8PR

- 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 Stuart Mills of Mills Extreme Vehicles Ltd against the decision of Gedling Borough Council.
 - The application Ref 2021/0424, dated 11 April 2021, was refused by notice dated 9 July 2021.
 - The development proposed is a change of use to natural pet burial ground.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on a) highway safety and b) protected trees.

Reasons

Highway Safety

3. The appeal site comprises an area of mixed woodland, which is partially cleared, on the eastern side of Mansfield Road. Access is currently controlled via a gate and no vehicular access is proposed as part of this development, excluding maintenance vehicles. Accordingly, it is proposed that visitors to the site would park in the adjacent lay-by and enter the site on-foot.
4. However, the lay-by does not form part of the appeal site therefore it cannot be relied upon as a carparking facility for the proposed development. At the time of my site visit I observed various vehicles using the lay-by, albeit the examples were limited in number. Nevertheless, its intended use is as a resting place for users of the highway and, given that Mansfield Road is a classified A road, it would be reasonable to assume that, at times, it could be well-used.
5. The lay-by is not particularly long and thus would be full after only a few vehicles are parked in it. It is likely that visitors would slow down on the approach to the appeal site and, if they observe that the lay-by is full, they may hesitate then may be tempted to mount the grass verge to park. If a visitor decided to drive past the lay-by they would then be tempted to find an area to turn around in so as to travel back to the site. There are limited other parking options in the immediate locality, however, even if there were, given the nature of the proposed development visitors would require parking as close to the site as possible. If visitors have exhausted all other options, there is a

possibility that they would park over the large, set back gated entrance, even if warning signs were in place, resulting in a need to reverse onto the carriageway when leaving.

6. As the evidence before me indicates that high numbers of vehicles use this highway, which correlates with my observations during my site visit, this aforementioned vehicular activity and pattern of driving would result in dangerous manoeuvres which would impede the free flow of high volume and fast-moving vehicles along the highway.
7. Even if the lay-by was available to park in at the time of a pre-arranged burial or visiting time, whilst it is within close proximity to the entrance of the appeal site, there is no defined footway along this stretch. Visitors would therefore have to traverse over uneven and, at times, overgrown and sodden grass. This would pose a risk for pedestrians. I note the suggestion that the grass verge could be paved. However, this stretch is nevertheless extremely narrow therefore pedestrians would be walking within very close proximity to the carriageway where a high volume of vehicles are travelling at fast speeds. I am not therefore convinced that paving the grass verge would safeguard pedestrians.
8. Various suggestions have been made regarding the provision and subsequent control of parking within the site. However, there is currently no dedicated parking area within the site and without further details on the provision or access arrangement I cannot be certain that safe access could be achieved or that parking would not raise additional concerns, particularly regarding the roots of the protected trees. Leaving this matter to a condition would not be appropriate as it could impose an unrealistic and therefore unreasonable requirement upon the development such that it would nullify the benefit of any permission it was attached to. Moreover, it is important that I consider the proposal based on the details that were provided to the Council.
9. Accordingly, the proposed development would significantly harm highway safety and thus would conflict with the highway safety aims of Policy LPD 61 of the Gedling Borough, Local Planning Document, Part 2 Local Plan (July 2018) (the LP) and the National Planning Policy Framework (the Framework).

Protected Trees

10. The appeal site falls within a larger area of woodland in which the trees are protected by Tree Preservation Orders. The areas of the appeal site which have been cleared of trees is where the proposed pet burial areas would be, albeit exact details of burial plots are not before me.
11. Nevertheless, I note that the cleared area is extensive and well defined. Although the submitted Tree Survey and Arboricultural Impact Assessment (February 2021) relates to various additional developments within the appeal site, it includes recommendations for a proposed burial ground. I am therefore satisfied that, subject to a perimeter around the edge of the clearing, which excludes excavations within that area, and a control on the type of excavation which can occur, then no significant harm would occur to the protected trees. These details could be controlled via appropriately worded conditions.

12. Therefore, the proposal would accord with Policy LPD 19 of the LP which seeks to ensure that developments do not result in a significant adverse impact on the character of the landscape.

Other Matters

13. The appellant has suggested that trees would be planted elsewhere although I do not know the full details, nor have I been provided with a mechanism in which this could be secured. I therefore afford this matter limited weight.
14. The appeal site is located within the Green Belt however the Council has not raised concerns in this regard. Given my findings above, there is no need for me to further consider the effect of the proposal on the Green Belt.
15. It is suggested that the LP is out of date as it pre-dates the revised Framework. However, paragraph 219 of the Framework advises that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. I consider that the policies relevant to this appeal are broadly consistent with the general intent of the Framework thus I have afforded them full weight.

Conclusion

16. Although the proposal would provide jobs and may encourage some local spending, the nature of these benefits would be limited given the small scale of the proposed development. Accordingly, they would attract only limited weight.
17. The proposal would result in harm to highway safety, harm which would lead to conflict with the development plan and to which I afford substantial weight. There are no material considerations worthy of sufficient weight that indicate a decision should be made other than in accordance with the development plan, therefore the appeal should be dismissed.

H Ellison
INSPECTOR