The Planning Inspectorate

Appeal Decision

Site visit made on 9 March 2022

by Debbie Moore BSc (HONS), MCD, MRTPI, PGDip

an Inspector appointed by the Secretary of State

Decision date: 18 March 2022

Appeal Ref: APP/C4235/X/21/3289107
Hazel Grove Railway Station, Station Street, Hazel Grove, Stockport SK7 4EX

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Paul Milnes of Northern Rail Ltd against the decision of Stockport Metropolitan Borough Council.
- The application Ref DC/082871, dated 28 September 2021, was refused by notice dated 30 November 2021.
- The application was made under section 191(1)(a) of the 1990 Act as amended.
- The use for which a certificate of lawful use or development is sought is described as "Click & Collect facility located within railway station. This benefits from Part 8, Class A to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended".

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In this type of appeal, the onus of proof is firmly upon the appellant. The Courts have held that the relevant test of the evidence on matters such as an LDC application is the balance of probabilities. The appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous.

3. It is indicated that the facility is sustainable development and the appellant asserts there must be some planning harm or policy basis to underpin a decision on whether or not permitted development rights apply. This is not correct. I must examine the submitted factual evidence, the history and planning status of the site in question and apply relevant law or judicial authority to the circumstances of this case. The planning merits of the use are not relevant, and they are not an issue for me to consider in the context of an appeal under section 195 of the 1990 Act as amended.

4. During my site visit I saw two click and collect facilities sited on the station forecourt. For the avoidance of doubt, it is the orange 'Amazon' facility that is before me since this is clearly the subject of the application. I have not considered the larger 'InPost' facility adjacent to the bus stop.

Main Issue

5. The dispute between the main parties concerns whether or not the click and collect facility comprises 'permitted development' under Article 3 and Schedule 2, Part 8, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO). I must consider whether the local planning authority's refusal to grant an LDC was well-founded.

Reasons

6. The click and collect facility has been installed on the station forecourt, close to the car park. The station itself incorporates the platforms, the station building with ticket office and a waiting room, a shop, lifts and a pedestrian bridge, parking areas, open and secure cycle parking, customer toilets, a bus stop/shelter, lighting and information boards.

7. The appellant indicates that the click and collect facility should be considered 'de minimis', meaning that it is on too small a scale to take account of. The facility is a sizeable metal structure measuring 1.9 metres by 0.6 metres by 1.95 metres high and is fixed to the wall with bolts. Its use would generate movements to and from the site by people wishing to collect and deposit parcels. There will also be delivery vans attending the site. It is explained that the facility has been used on 4138 occasions between January to November 2021. As such, the facility cannot be considered de minimis. Indeed, the appellant's own evidence is contradictory on this matter as reference is made to the Schedule 2, Part 7, Class C which concerns the erection or construction of a collection facility within the curtilage of a shop. The inclusion of this type of development in the GPDO strongly suggests that express planning permission would be required unless deemed to be permitted development.

8. Schedule 2, Part 8, Class A of the GPDO relates to development by railway undertakers on their operational land, required in connection with the movement of traffic by rail. It is argued that the facility is part of normal railway infrastructure at a station and is part of the function of passenger travel in the same way as a shop functions, for example. I consider there is a difference between a station shop and the click and collect facility. It is usual for passengers to buy food or drink for the journey and/or reading material. Toilet facilities and waiting rooms are necessary. It is also common to provide car and cycle parking for passengers. All these facilities are used by passengers in connection with travel by rail. It is unlikely that these facilities would be used by anyone other than passengers. In contrast, the click and collect facility would be used by people who do not necessarily make an associated rail journey.

9. The appellant likens the facility to cycle or left luggage lockers. However, lockers are clearly linked to travel by rail. It is common for passengers to cycle to a station and it is reasonable that secure storage is provided. Similarly, passengers may wish to store luggage on a temporary basis at the point of arrival or departure. Cycle and luggage lockers are highly unlikely to be used by anyone other than passengers or station staff. The click and collect facility is more likely to be used by non-passengers due to the inconvenience of carrying parcels on the train. Its location next to the car park means it is easily accessible for people who are passing by, not necessarily those who are travelling.

10. It is suggested that the facility should be considered permitted development as it is akin to locating it within the curtilage of a shop, to which Class C of Part 7 of the GPDO applies. However, that would be an incorrect test. It is common ground that the relevant provision is Class A of Part 8. It is not development within the curtilage of a shop.

11. The appellant provides data to support an assertion that the use of the click and collect facility is a normal part of the usage of the railway by passengers. Even if were to accept the data provided, and if I were to assume that the people using the facility also travelled by train which is unclear, the conclusion is that only 4 percent of passengers used the facility, which undermines the argument.

12. Similarly, I cannot "give a wide discretion to the interpretation of permitted development rights" nor consider whether applying for planning permission for such development would be unreasonable. The decision turns on the facts and the relevant statutory provisions. It is not correct to assert that any development within a station would require express planning permission should it be found that the click and collect facility would not be permitted development. The test is whether the matters would comprise development by railway undertakers on their operational land, required in connection with the movement of traffic by rail.

Conclusion

13. For the reasons given above, I find that the click and collect facility would not be 'permitted development' under Article 3 and Schedule 2, Part 8, Class A of the GPDO, and express planning permission would be required.

14. I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a Click & Collect facility located at Hazel Grove Station was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

Debbie Moore

Inspector