
Appeal Decision

Site visit made on 27 September 2022

by A A Phillips BA(Hons) DipTP MTP MRTPI AssocIHBC

an Inspector appointed by the Secretary of State

Decision date: 19 October 2022

Appeal Ref: APP/N2345/C/22/3292539

Lewth Farm, Lewth Lane, Woodplumpton, Preston PR4 0TD and land adjoining Lewth Farm, Lewth Lane and land lying to the north of Cinder Lane, Woodplumpton, Preston PR4 0TD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Karl Ince against an enforcement notice issued by Preston City Council.
- The enforcement notice was issued on 18 January 2022.
- The breach of planning control as alleged in the notice is the material change of use of the Building from a lawful agricultural use to a commercial use for the storage and distribution of toys in connection with a business that sells toys.
- The requirements of the notice are:
 - i. Cease the storage and distribution (Use Class B8) use of the Building and
 - ii. Remove from the Building and the Land all toys, other articles and equipment used in connection with the storage and distribution use.
- The periods for compliance with the requirements are:
 - i. Paragraph 5(i) within two (2) months.
 - ii. Paragraph 5(ii) within three (3) months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice upheld.

Application for costs

1. An application for costs was made by Preston City Council against Mr Karl Ince. This application is the subject of a separate decision.

The appeal on ground (a)

2. The ground of appeal is that planning permission should be granted. The main issue is whether safe and suitable access to the site can be achieved for all users.
3. The appeal site is a former agricultural building and associated hardstanding area which is part of a group of former farm buildings which have a variety of uses, including gymnasium and offices. Along with nearby residential properties it forms part of a cluster of buildings which have access off Lewth Lane by an unadopted road which also serves as a public right of way.
4. The access road's junction is on a curved section of Lewth Lane which is a rural road with no footway or lighting and is the subject of the national speed limit. The access road which serves the appeal site and other local properties is

relatively narrow with no designated passing places. The length of road closest to Lewth Lane is relatively straight with good forward visibility, but it is then constrained by relatively sharp bends with mature, dense hedgerows either side which restrict visibility. Consequently, the access road is not suitable for further intensification in use, including by large commercial vehicles which may serve a building and land in storage and distribution use.

5. The appellant has submitted a Technical Note and swept path analysis with his appeal and these are the same documents that were submitted in support of his previous appeal¹ against the refusal of the Council to grant planning permission for a change of use from agricultural building to storage and distribution building (B8). That appeal was dismissed on the grounds that the development failed to provide a safe and suitable access for all users.
6. The Technical Note concludes that there are no difficulties in commercial vehicles accessing the site and larger agricultural vehicles could serve the site in any case to serve the approved agricultural use. In addition, the swept path analysis shows that access can be achieved by 7.5 tonne HGCs approximately 8 metres long and 2 metres wide, although there would be some encroachment onto grass verges. I accept the findings of the Note, but that is a theoretical analysis rather than a representation of what may happen in reality given the commercial storage use of the building and land in question.
7. In addition, the evidence before me is that traffic surveys show that only 14 vehicles visit the site each day between Mondays to Fridays, inclusive. However, no details of the survey methodology have been provided other than the fact that it was undertaken during the pandemic lockdown, when travel and non-essential journeys were discouraged. Therefore, the survey may not be representative of a typical working week.
8. The Technical Note also contends that fewer vehicles use the site now than when the building and associated land was in agricultural use. However, it is my understanding that the building has not been used for agriculture for some time and that the access track has not been used regularly for agricultural vehicles on a regular basis in recent years. As such there is insufficient evidence for me to conclude that the development has reduced the number of vehicle movements along the access road.
9. The evidence shows that there have been no recorded vehicle accidents in the vicinity of the site, but the use for storage and distribution purposes and potential consequent increase in HGV movements could increase the likelihood of conflict and accidents. Therefore, it is important that the access road is suitable for all highway users, including pedestrians who may use it to access the commercial or residential properties which it serves. The access is not wide enough for the safe passage of a pedestrian or other vulnerable highway user and large commercial vehicles. There is insufficient room for safe passage and, in addition, the creation of such safety would be dependent upon regular and careful maintenance of hedges, without which there would be poor visibility and a lack of space for pedestrians to the side of the hard surfaced carriageway. The nature of the access road is unsuitable for shared use as a consequence of its narrowness, poor visibility and the presence of sharp bends.

¹ APP/N2345/W/21/3273208

10. In the absence of any further clear evidence I conclude that, taking into account the length and narrowness of the road, constrained visibility and lack of lighting, the access road is not suitable for any intensification by being used by large commercial vehicles.
11. I have considered whether restrictions could be imposed by using planning conditions, but I do not find that any would work practically and details of how such restrictions would be managed and monitored are unclear. Neither am I satisfied that other alternatives such as HGVs loading and unloading at the junction of the access with Lewth Lane would mitigate potential harm to highway safety.
12. Therefore, in the light of the above and in the absence of any further evidence I find that the development fails to provide safe and suitable access for all users and conflicts with Policies ST1 and ST2 of the Preston Local Plan 2012-2016 (Site Allocations and Development Management Policies) Adopted July 2015. Among other objectives, these require that road safety and the efficient and convenient movement of all highway users is not prejudiced. There is also conflict with the National Planning Policy framework (the Framework) with respect to giving priority to pedestrians and cycle movements within the development scheme and in wider areas, creating places that are safe and minimise conflict between highway users.

Conclusion

13. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Formal decision

14. The appeal is dismissed and the enforcement notice upheld.

A A Phillips

INSPECTOR