



Appeal Decision

Site visit made on 15 November 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/A3010/W/22/3298292

Bridge Farm, Fenton Lane, Sturton le Steeple DN22 9HF

- 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 David Heeley (Six Oaks Motor Company) against the decision of Bassetlaw District Council.
 - The application Ref 21/01258/COU, dated 3 August 2021, was refused by notice dated 27 January 2022.
 - The development proposed is described as: change of use from an orchard to a storage area for cars
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use from an orchard to a storage area for cars at Bridge Farm, Fenton Lane, Sturton le Steeple DN22 9HF in accordance with the terms of the application, Ref 21/01258/COU, dated 3 August 2021, subject to the conditions set out below:
 - 1) The site shall only be used for the storage of cars and for the parking of customer's vehicles and not for any other activity.
 - 2) There shall be no delivery or collection of cars to or from the site by goods vehicles exceeding 7.5 tonnes (gross vehicle weight).
 - 3) No more than 12 cars shall be stored at the site at any one time.

Procedural Matters

2. I have taken the description of development from the appeal form in the interests of brevity. In doing so, I have removed words that are not acts of development.
3. The appeal seeks planning permission for a change of use to a storage area for up to twelve cars in connection with an internet-based car sales business. Visits by customers are by appointment only and sometimes involve a test drive. The storage area has been used in this way since around May 2019, before the planning application was submitted. The appellant is therefore seeking permission retrospectively. During my site visit I observed that eight cars were parked in this area in the arrangement shown on the submitted layout plan. I have taken these matters into account in my decision.

Main Issue

4. The main issue is the effect of the development on highway safety.

Reasons

5. The appeal site is a rough surfaced compound, enclosed by a high fence and gates located immediately adjacent to Bridge Farm. Bridge Farm and the appeal site front Fenton Lane, a single width road with no formal passing places. The road is bounded by a highway verge to both sides for most of its length, although there is no designated footway. The lane serves around seven residential properties as well as a number of groups of relatively large agricultural buildings. The lane is accessed from the classified Leverton Road around 700 metres to the west. To the east beyond the appeal site, there is a humpback bridge, beyond which the road becomes gated. It continues in this direction beyond this point as a bridleway.
6. On the site visit I saw that traffic levels along the lane are extremely low. Nonetheless, the chances of vehicles meeting along the lane are likely to have increased following the development at the appeal site. Additional traffic is likely to comprise of customer's vehicles visiting the appeal site for appointments, as well as vehicles being driven away following purchase and those on test drives.
7. However, having regard to the appellant's figures, which have not been disputed by the Council, the chance of vehicles meeting along the lane is still likely to be a relatively rare occurrence due to the reasonably low numbers of vehicles and trips involved. In this regard the appellant states that the business generates on average around one arrival and departure per day. When taking into account the appellant's traffic survey with a 7-day average of 53 trips per day over a nine-month period, the appellant's business amounts to just 4% of all trips along the lane over a week.
8. Nonetheless, even if vehicles were to meet on occasion and, notwithstanding the above, the appellant has directed me to several informal passing places that exist along the lane and that I was able to view on my site visit. Consequently, whilst traffic levels have increased through the development, I am satisfied that the small increase is capable of being accommodated by the lane.
9. The appellant's statement contends that speeds along the lane are circa 36 mph which has not been disputed by the Council. This is broadly consistent with my impressions on site which were that speeds were likely to be typically lower than the national speed limit. I saw that speeds were likely limited by the narrowness of the road, the position of the bends, its relatively short length, and due to it being a no-through route.
10. Speeds are likely to be particularly low in the vicinity of the appeal site given the position of the bridge. As such, having regard to the appellants figures regarding potential speeds in the vicinity of the bridge, and my impressions on the site visit, I am satisfied that adequate levels of visibility are possible when exiting the appeal site onto the highway here.
11. I note that the highway verge is relatively wide and present to both sides of the road for most of its length. This would allow pedestrians or horse riders using the bridleway to easily exit the carriageway if necessary. Moreover, the relatively low speeds would allow those sufficient time to respond to any approaching vehicle. Such situations are likely to have occurred prior to the change of use at the appeal site. Given the relatively small increase in the

- number of vehicles, I am satisfied that the development has not resulted in a significant reduction in safety or the enjoyment of users of the bridleway.
12. Nevertheless, I agree that deliveries from a large car transporter are likely to obstruct the road and could cause problems for other road users along the lane. However, I note that the appellant has stated that this no longer occurs and has indicated a willingness to accept a planning condition restricting deliveries by car transporters in this way.
 13. The Council has referred to cars being potentially unloaded from transporter vehicles onto the public highway. However, I am required to consider the proposal before me which is for the storage of vehicles on the appeal site rather than the highway. If vehicles were to be stored on the public highway this would be a separate matter.
 14. With regard to the visibility at the junction with Leverton Road, the appellant has calculated the visibility requirements based on the results of a speed survey, however the visibility to the south still falls short of these requirements by 20 metres. Nevertheless, this is an existing road junction and the appellant has provided me with accident data indicating that there have been no accidents along the section of road adjacent to the junction since the records began in 1999.
 15. Having regard to the above, I am mindful of the small proportion of vehicle movement generated by the development at the appeal site. As such the development is unlikely to have caused a significant reduction in highway safety at this junction.
 16. For the above reasons I conclude that the development does not have an unacceptable effect on highway safety. The proposal would therefore comply with Policy DM4 of the Bassetlaw Local Development Framework (2011) which seeks to ensure new development is not detrimental to highway safety and provides safe and convenient access for all. Similarly, there would be no conflict with paragraph 111 of the Framework which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

17. The Council has referred to the boundary fence in its report and states that the fence does not enhance the area. The fence is not referred to in the reasons for refusal which are solely on highway grounds. Nevertheless, the fence is a dark stained simple structure, that is not obtrusive and does not stand out alongside nearby domestic boundary treatments.
18. Letters of objection have referred to cars being washed on or adjacent to the highway causing pooling of water, some of which has washed into the adjacent watercourse. However, this proposal is for a car storage area. Other activities being carried out away from the appeal site or on the public highway is a separate matter for the Council that does not form part of the proposal before me.

Conditions

19. As the change of use has already occurred, I have not imposed a time restriction for the commencement of development. The Council has not provided a list of planning conditions that it considers should be imposed if planning permission is granted. However, conditions limiting the use were suggested by the appellant during the consideration of the application. Whilst I have not imposed those conditions, the conditions set out below reflect some of the content and aims of those suggested. In imposing these conditions, I have sought the views of both parties.
20. In order to avoid an unacceptable impact on highway safety or significant adverse effect on the living conditions of local residents from future intensification, it is necessary to impose conditions limiting the use to storage only and restricting the number of cars that can be stored on the site.
21. I have also imposed a condition preventing delivery or collection by vehicles weighing over 7.5 tonnes. These are defined as 'large goods vehicles' in the Road Traffic Act 1988 (the Act). This condition would prevent deliveries by large articulated transporter vehicles in line with my above reasoning. Whilst the Council has questioned the enforceability of this condition, the restriction of large goods vehicles as defined in the Act would ensure that this condition is precise and enforceable. This condition is reasonable as it would not prevent delivery by lighter goods vehicles. It would also not prevent access to the site by standard recovery vehicles were a car to break down at the appeal site.

Conclusion

22. For the reasons given above I conclude that the appeal should be allowed.

Paul Martinson

INSPECTOR