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# Appeal Decision

Site visit made on 4 March 2024

**by L Clark BA(Hons) DIPTP MRTPI**

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

**Decision date: 16 April 2024**

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**Appeal Ref: APP/X1355/W/24/3337086**

**The Oaks Centre, Ehl Uk, Whinfield Drive, Aycliffe Business Park, Newton Aycliffe, Durham DL5 6AU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by EHL UK against the decision of Durham County Council.
  - The application Ref is DM/22/01442/FPA.
  - The development proposed is workplace unit for use as a veterinary practice and associated works including car parking provision and alterations, cycle park and refuse area.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have amended the description of the development in the banner heading above to that used on the decision notice. This is a more comprehensive description of the proposed development than that given on the application form and ensures that it accurately captures the scope of the proposal.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

## Main Issue

4. The main issue is the effect of the proposal on highway safety, with particular regard to the provision of parking.

## Reasons

### *Background*

5. The Council granted planning permission in 2015 for the change of use of the building from Adult Education and Rehabilitation Centre (Use Class D1) to a mixed-use comprising Office Accommodation (B1), Fitness Gym (D2) and Café (A3) including an extension to the existing car parking to provide an additional 51 spaces spread between two areas to the east and west of the existing building (ref: DM/15/01698/FPA). The total parking on site for all uses would have resulted in the provision of 77 spaces.
6. Within the 2015 permission, Condition 3 stipulated that "the easternmost car park extension as shown on Approved Drawing No. 15/05/215/11 shall be constructed to completion and available for use within 6 months of the date of

this permission and the westernmost car park as identified on the same drawing, shall be constructed to completion and available for use within 12 months of the date of this permission.” Despite the permission having been implemented, the proposed car parking spaces as per the approved drawing have not been provided.

### *Highway Safety*

7. The appeal site is located within an extensive industrial estate of Newton Aycliffe Business Park. The appeal relates to an area of land laid out as grassland associated with The Oaks Centre (The Oaks), a mixed-use complex with a number of uses, including Siesta Coffee, a Gym, Clinic Spa and milk vending machine.
8. The proposed development would add to the range of services provided within The Oaks, and reconfigure the existing car park to the south, increasing the overall number of vehicle spaces directly in front of the appeal site from 14 to 16. It would also provide 2 further car parking spaces on land included within the blue line, indicating that it is within the same control or ownership as the appeal site.
9. Parking surveys undertaken by the appellant in support of their appeal were carried out on 14 December 2021 (Tuesday) between 07:00 and 10:00 and 15:00 and 18:00, and 18 December 2021 (Saturday) between the hours of 11:00 and 15:00, only related to Siesta Coffee. I note the appellant contends that the Council does not dispute the Transport Statement (TS) or Transport Statement Supplementary Information (TSSI). However, it is clear from the Council’s statement that it does not accept the findings, as the surveys “didn’t cover the likely peak period for the coffee shop which is expected to be the lunch period and did not reflect the on-site observations.”
10. I consider the parking survey to be limited in its scope, failing to assess the parking demand across all the services associated with The Oaks. It also omits times of the day during the working week for Siesta Coffee when it is likely that there would be fluctuations in parking demand. As such I do not consider the parking survey to be comprehensive in its assessment.
11. Despite the appellant contending that the Gym serves the adjoining employment centre and businesses, there is no planning obligation before me and therefore no legal mechanism that would restrict the use of the land in any specified way. Given the above, whilst the surveys do show a steady utilisation of the car park associated with Siesta Coffee, they do not provide an accurate account of the existing car park arrangement alongside all other services offered within The Oaks.
12. I have been told that 9 spaces have been provided within The Oaks since the 2015 permission. Notwithstanding this, from the evidence before me, the number of spaces within The Oaks is still significantly below the previously approved number of spaces. Whilst I acknowledge that the 9 spaces would help alleviate demand on site, photographs provided by the Council dated Wednesday 22 March 2023, Thursday 21 September 2023 and Tuesday 6 February 2024 show the car parks associated with The Oaks operating near maximum capacity and that cars of patrons were parked on the surrounding highway. I acknowledge that the photos (whilst dated) do not qualify what time of the day they were taken, or whether the occupants of the cars were patrons

of The Oaks. However, it is logical that given the time of year and light levels, these were taken during the day. Furthermore, given where the vehicles were parked it would be reasonable to assume that occupants of those vehicles were patrons of The Oaks. This would correspond with my observations on site, where I saw patrons of The Oaks parking on the adjacent highway. Whilst I acknowledge that this is a snapshot in time and is not necessarily representative of the situation in the evening or on a weekend when the offices are closed, my observations reflect those of the Council, in that there is clear demand for parking which is not being met on site.

13. I acknowledge that 4 spaces would be required for the employees of the proposed Veterinarian practice however, only 2 of those spaces would be provided within the adjacent car park with the remaining 2 set further away. If patrons were to park in spaces within the blue line, they would be required to walk much further. As such it would be highly likely patrons would park on the nearby highway closets to the practice to avoid walking or carrying their pet long distances.
14. Furthermore, the figures presented in the appellant's Trip Rate Information indicate 6 movements per day, with only 2 movements in the AM peak. This level of movement seems low when accounting for staff present and visitors. Therefore, whilst there may be low levels of vehicle movements across the day, given the narrowed scope within the parking survey and that the existing car park is operating at full capacity at several points during the day, even a small increase in additional vehicles would likely result in the displacement of parking on the nearby estate roads as visitors of the proposal seek to find car parking elsewhere.
15. Given that I have observed vehicles associated with The Oaks currently parking on the estate road, any intensification in the range of services offered within The Oaks would likely create additional demand for parking where there is already an existing shortfall, with additional vehicles likely to be displaced onto the nearby highway, resulting in the width of the carriageway being restricted and leading to larger vehicles (e.g. HGV's) oversailing the carriageway to access car parks of adjacent uses. Additional indiscriminate parking close to junctions and other access points along the estate road would ultimately result in an unacceptable effect on the local road network as manoeuvrability becomes restricted and pedestrian safety is compromised.
16. Even though the Council's photos were taken after the application was refused, I have no reason to dispute its findings which show the high level of parking stress within The Oaks over three days during the working week.
17. I conclude that the proposed development would lead to the displacement of parked vehicles onto surrounding roads and that this would have an unacceptably adverse effect on highway safety. This would be in conflict with Policy 21 of the County Durham Plan 2020 and Policy GANP T1 of the Great Aycliffe Neighbourhood Plan 2016-2036, which collectively seek to ensure that vehicular traffic generated by new development can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion. There would also be conflict with the SPD which seeks, amongst other matters, for parking provision at destinations to be sufficient to provide for the needs of the development, protecting the amenity of the surrounding area by removing any need to park in inappropriate locations,

which can cause highway safety issues. There would also be conflict with the Framework, which advises that development should have no unacceptable impact on highway safety.

### **Other Matters**

18. There is no dispute between the parties regarding the proposed reconfiguration of the exit associated with the Siesta Coffee drive-thru, or the character and appearance of the proposed veterinary practice. I therefore see no reason to reach a different view.
19. Whilst the proposed development would provide benefits to the economy, including job creation and an additional range of services, it does not provide justification for harmful development.
20. The Council's failure to upload the TS and TSSI onto its planning portal did not affect its assessment of the proposed development. Furthermore, photographs within its Statement demonstrates that it had undertaken site visits post submission of the planning application.
21. The lack of engagement from the Council during the application is not within the scope of my assessment which must focus on the planning merits of the appeal proposal.
22. The absence of harm to the character and appearance of the area, loss of open grassland, ecology, drainage, flood risk and contamination are neutral matters in the overall planning balance as this would be a likely requirement of a well-designed development. Furthermore, the lack of objections does not in itself render the scheme acceptable.

### **Conclusion**

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

*L Clark*

INSPECTOR