



Appeal Decision

Site visit made on 11 June 2024

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st July 2024

Appeal Ref: APP/U2750/W/23/3332839

Coulbeck Grainge, Sexhow Lane, Sexhow, Hutton Rudby, North Yorkshire TS15 0ER

- 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 Mr Karl Syson against the decision of North Yorkshire Council.
 - The application Ref is 22/00930/FUL.
 - The development is retrospective change of use to B2.
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Decision

1. The appeal is allowed, and planning permission is granted for the retrospective change of use to B2 at Coulbeck Grainge, Sexhow Lane, Hutton Rudby, North Yorkshire TS15 0ER in accordance with the terms of the application, Ref 22/00930/FUL, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Karl Syson against North Yorkshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have used the description of development as stated on the Council's decision notice, rather than that given on the application form, as this is more precise. The development has already been carried out and therefore I am considering this appeal retrospectively.

Main Issue

4. The main issue is the effect of the development on public access, with regard to the enjoyment of the public bridleway by all users.

Reasons

5. The appeal property is an agricultural building in the open countryside, located on a loose surfaced track, accessed from Sexhow Lane. The track is part of the public right of way network (PROW) and is a public bridleway. It is relatively wide in parts and is bounded by grass verges. Opposite the appeal property there is a large area of hardstanding adjacent to the track. The southern part of the building is in agricultural use, the northern part to which this appeal relates has an extant planning permission for a workshop for the servicing/repair of agricultural machinery.
6. It is not disputed that vehicle movements along the track are relatively low on a daily basis, particularly in relation to heavy goods vehicle (HGV) movements

and that there has been an overall reduction in average daily vehicle movements associated with the current use in comparison to the extant B2 use. It is also agreed that the track is not extensively used for walking, cycling or horse riding and that interactions between users and HGVs is therefore an infrequent occurrence. The survey data provided by the appellant was carried out across a number of days and weeks and is representative of the vehicle and user movements on the track. The Council has not disputed the validity of the survey and I have no clear reason not to take the findings into account.

7. While a breakdown of the types of vehicles associated with the extant B2 use has not been provided, there would have been the potential for large vehicles to have been on the track, such as articulated lorries and tractors towing trailers. Albeit I accept that this may not have been a daily occurrence as is the case for the current use. Even though HGV movements are a daily occurrence, and even if more HGV movements are generated by the development than the extant use, having regard to the appellant's surveys, the chance of users of the track and HGVs meeting is still likely to be a relatively rare occurrence due to the reasonably low numbers of HGV vehicles involved with the current use and the limited use of the track by all users.
8. Moreover, if HGVs were to meet users of the track on occasion, the speed of vehicles is likely to be limited owing to the unsealed nature of the track and due to its being a no-through route, and as such there would be sufficient time for users to leave the track and move away from any approaching HGV. The track is relatively wide in places and the presence of grass verges allows pedestrians or horse riders to easily move to the side for a short period of time if necessary. This is the same situation on typical lanes within the countryside and there is no substantive evidence that this arrangement would provide unsatisfactory refuge temporarily.
9. In combination, the low number of HGV movements and the fact the track is not extensively used for walking, cycling or horse-riding means, in my view, that the development does not fundamentally change the experience of users of the track and therefore does not undermine their general enjoyment of the route or would it result in horses being 'spooked'. In coming to this conclusion, I have taken account of the fact that a very short section of the PROW network is affected for intermittent periods of time. Therefore, disruption is likely to be minimal, the harm to the experience of users of the track would not be significant and it would not be any less of an attractive route as a consequence. Furthermore, given the low number of HGV movements there is no clear evidence that extensive damage to the track's surface has occurred or will occur in the future.
10. The Council accept that the appeal building can accommodate an HGV with the doors closed and it is indicated by the appellant that when loading/offloading takes place there are banking staff outside of the premises to watch vehicles in and out safely. The large area of hardstanding adjacent to the track is also available for use by HGVs to pull off the track to wait before manoeuvring. It seems unlikely that were users on the track, particularly horse riders, an HGV driver would attempt to manoeuvre on to the track to enter the premises and would instead wait for the users to pass. Even if manoeuvring was taking place when users were on approach, any disturbance or obstruction would be for a short duration and the experience of users of the track would not be significantly diminished.

11. While interested parties' evidence indicates that HGVs have been parked up and waiting on the track this would appear to have been at a time where there was either no area of hardstanding adjacent to the track, or where there were containers on the area of hardstanding preventing it from being used by waiting vehicles, which have since been removed. Furthermore, a condition can be imposed to prevent the storage of materials, machinery or the addition of external plant or machinery at the site to ensure the track is not obstructed.
12. Concern has been expressed about the potential for impulsive sounds from operations at the site and the effect of such sounds on horses on the track. As set out in the Noise Impact Assessment (July 2022) (NIA) previous loud bangs heard at the site were related to a fault with the roller shutter door which has now been fixed and were not in relation to the development's operations, nor were the noise contributions from the site found to be impulsive. A character correction penalty was however applied in the noise assessment to account for the intermittent nature of the operations.
13. Taking this into account the NIA has assessed noise from operations on the site to be below the lowest observed adverse effect level. While this is based on the effect of noise on humans and acknowledging that horses are more sensitive to noise than humans and may take flight if they perceive sudden noise to be dangerous, there is no substantive evidence that the noise associated with the development is impulsive or that the identified noise levels would be likely to cause horses to be alarmed.
14. Overall, the development does not have an unacceptable adverse effect on public access, with regard to the enjoyment of all users of the public bridleway, in accordance with Policies IC2, IC3 and E4 of the Hambleton Local Plan (2022). Amongst other things, these policies require development to retain and protect PROWs and their associated amenity value.

Other Matters

15. The site is in proximity to the Grade II* listed manor house known as Old Hall Cottage Sexhow Hall. From the information before me, the special interest and significance of this asset primarily stems from, singularly or in combination, its historic and architectural interests, including a medieval cross wing. However, pertinent to the appeal, it is also derived, to a greater or lesser extent, from its rural setting.
16. Given the location and extent of the development in relation to the listed building, I consider that the setting of this designated heritage asset is preserved and the contribution it makes to the asset's significance is not harmed. For the same reasons the development has a neutral effect on the setting of the nearby Hutton Rudby Conservation Area. This meets the requirements of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the provisions in the National Planning Policy Framework (the Framework) regarding the conservation and enhancement of the historic environment. I note the Council raised no concerns in this respect either.
17. Several objections have been raised from interested parties regarding highway safety along Sexhow Lane which I have carefully considered. Residents have brought to my attention through photographs that there is limited room for a vehicle to pass an HGV. It has also been suggested that there has been an

increase in traffic along Sexhow Lane. I have no reason to doubt local resident's comments on these matters.

18. Nonetheless, the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. Based on the evidence before me, the appeal scheme does not add to the existing traffic levels or an increase in HGV movements, to the extent that it adversely affects highway safety or has a severe impact on the network.
19. While the Council indicate that the Noise Impact Assessment (July 2022) (NIA) provides an accurate determination of the noise impact of the development, I note the concerns of the neighbouring occupiers that the development is said to have diminished their quality of life owing to noise from the site. However, even if the building has been built to agricultural specifications, without sound proofing, the NIA measures the noise breakout from internal operations at the site to be below the Lowest Observed Adverse Effect Level. This is based on the assumption that deliveries take place inside the premises and that the roller doors are closed when the machinery is in operation. I have imposed conditions to secure deliveries in this manner and the operation of machinery with doors closed to ensure that neighbouring occupiers living conditions are protected. There is no clear reason why the noise levels at the site would be detrimental to a nearby premises which has planning permission for a 'dog exercise and discovery facility'.
20. I have been presented with no firm evidence to demonstrate that the development is better suited to existing employment sites or that the HGV movements associated with the development are likely to be harmful to the structural integrity of dwellings located on Sexhow Lane. While there are concerns regarding the future intentions of the appellant and their wider business interests, this does not alter or outweigh my findings which are based on the planning merits of this case.

Conditions

21. The conditions suggested by the Council have been considered and amended as necessary to ensure compliance with the Planning Practice Guidance and the Framework. The development has already taken place therefore it is not necessary to impose a condition relating to the approved plans. A condition is imposed to prevent the erection of a means of enclosure to ensure that there is space adjacent to the track for users in the event that there is a vehicle also using the track. Similarly, a condition is imposed preventing the external storage of materials and machinery on the site to ensure the track remains free of obstructions.
22. Concerns have been raised by interested parties about the operating hours of the business, taking place in the evening and on bank holidays. To ensure the living conditions of neighbouring occupiers are protected a condition relating to hours of operation has therefore been imposed. This has been amended to 8am Mondays to Fridays to reflect the current hours of operation. For the same reason, conditions are imposed to prevent the installation of external fixed plant or machinery, to ensure that deliveries take place within the premises and that the operation of machinery takes place with windows and doors closed.

23. There is no substantive evidence to demonstrate that the removal of the roller shutter door on the northwest gable is necessary to protect living conditions, nor that permission should be refused in the absence of such a condition, and therefore a condition requiring its removal has not been imposed. Similarly, I have not included reference to a requirement for the unloading of metal onto an absorbent material.

Conclusion

24. For the reasons given above, the development accords with the development plan, read as a whole. There are no material considerations that indicate that a decision should be taken other than in accordance with it. Therefore, I conclude that the appeal is allowed.

F Harrison

INSPECTOR

Conditions

- 1) No fence or other means of enclosure shall be erected within 1.5 metres of the eastern edge of the access track between the entrance gates (to the north) and north-facing elevation of the building (to the south).
- 2) The business shall only operate between 8am to 6pm on Mondays to Fridays and between 9am and 2pm on Saturdays. Operations shall not take place at any time on Sundays or on Bank or Public Holidays.
- 3) All delivery operations, including the loading and unloading of steel, shall be undertaken internally within the premises.
- 4) All doors and windows of the building shall remain fully closed whilst machinery associated with the operation of the development are in use.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and reenacting that Order with or without modification), no external fixed plant or machinery shall be installed on the site.
- 6) There shall be no external storage of materials and machinery on the site.

*****End of Conditions*****