



Appeal Decision

Site visit made on 22 January 2025

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/N2739/W/24/3353700

Land to south of Bramble Court, Sherburn in Elmet, North Yorkshire LS25 6ND

- 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 Mohammed Tavakoli against the decision of North Yorkshire Council.
 - The application reference is ZG2024/0189/FUL.
 - The development proposed is two garages with store.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the living conditions of neighbouring residents; and the effect on highway safety.

Reasons

3. The description of development relates to two garages but the plans were altered during the process of the application to show just one. The proposed building would be of a form and scale not dissimilar to that of a former agricultural building that was previously on the site. The council have not raised concerns with regard to the form or appearance of the building proposed. The only concerns relate to the potential for harm to the neighbouring residents; and users of the track and its junction with the main road.
4. The Design and Access Statement advises that the proposal is to allow off road car parking and bin storage for the landowner and/or local residents. The appeal statement further clarifies that the use would be as a domestic garage to rent to neighbours or to use for the storage of the owner's classic car. It is suggested that there need not be a situation where the proposal could be a business and that the initial intention for personal storage was evidenced in the proposal. It is suggested that planning approval could be conditioned as described in an email. A number of emails have been provided. Whilst these make reference to the potential to use a condition, no such condition has been provided within the provided emails or elsewhere.
5. It is evident, that the land owner, who does not live in the adjoining houses, is seeking storage space within the new building. Although the proposed storage would be of a domestic nature, such as a car, this represents a storage use within

Use Class B8 - Storage or distribution of the Town and Country Planning (Use Classes) Order 1987 (as amended). It is also suggested that neighbours could utilise the area of land outside the building for additional parking. Despite this being closely associated with their residential properties, such a use would also fall within the same use class. There seems to be considerable uncertainty as to whether neighbouring residents have an interest in using the land as described but I have assumed that if they did, the land would be rented on a commercial basis.

6. An unrestricted B8 use, in such close proximity to the residential properties opposite, would result in the potential for significant harm as a result of the comings and goings and activity at this site. This would be exacerbated as the entrances to the garages would encourage the use of the shared track for any loading or unloading. Any storage within the open rear area would also be likely to result in vehicles loading and unloading from the track as there would be little space for such vehicles within the limited size of the site. Any blockage of the access track, even for short periods, particularly outside the garage doors of the building, would be likely to result in vehicles being unable to leave the main carriageway to access the neighbouring properties. It is also likely to increase the number of vehicles having to reverse from or into the highway which would increase highway safety concerns. Such a use would undoubtedly be at odds with the amenity and highway safety requirements of policies ENV1(1&2), EMP6(B1) and T2(1) of the Selby District Local Plan 2005.
7. Details of a condition to restrict the use of the site have not been provided. It would be necessary to limit the use to such an extent that the level of activity associated with the building and the associated land would be extremely limited as this is a residential area; the garage door openings face the neighbouring property; and it requires the use of a narrow shared access close to the main road that serves the commercial activities at the centre of this village. Given that the building itself would represent a significant investment, I am not certain that such a restrictive condition would be reasonable, particularly in the longer term. In the absence of a proposed condition that I could assess against the tests set out in government guidance, I am not persuaded that I am able to impose a condition that would meet all of those tests.
8. Without a sustainable and enforceable condition having been proposed, I have considered the development based on its unrestricted use. I have found this to be harmful. Whilst there would be economic benefits from the construction works and any commercial activity that resulted, these would not outweigh the harm. Whilst I have considered all the matters put forward, they do not outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR