



Appeal Decision

Site visit made on 16 May 2025

by **Paul Martinson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 July 2025

Appeal Ref: APP/W9500/W/25/3360120

Land west of Highfields, Sled Gates, Fylingthorpe YO22 4TZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr SIW Properties against the decision of North York Moors National Park Authority.
 - The application Ref is NYM/2024/0460.
 - The development proposed is described as: 'Residential Development up to 4 dwellings with means of access to, but not within, the site to be considered (all other matters reserved for later approval)'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline form seeking approval for access with scale, layout, appearance and landscaping reserved for future consideration. I have dealt with the appeal on this basis and I have treated the submitted plans as being illustrative only, insofar as they relate to matters of scale, layout, appearance and landscaping.

Main Issue

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

Reasons

4. The appeal site is a field located on the fringes of Fylingthorpe. A hedgerow set behind a narrow verge defines the boundary with Sled Gates, the road past the appeal site. The road slopes, steeply in places, and the appeal site lies adjacent to a bend in the road within the 30mph limit. I saw that traffic levels were reasonably high, and that the road was in regular use by large buses and HGVs, reflective of this being one of the main routes into Fylingthorpe.
5. Several of the residential properties opposite the appeal site have no off-street parking. There is also no footway and the buildings are therefore positioned reasonably close to the road edge, behind small front gardens. Owing to the lack of parking, I saw that vehicles were parked along the roadside here. This is consistent with the Inspector's observation at the previously dismissed appeal at this site¹.

¹ Ref: APP/W9500/W/22/3301450.

6. The proposed access would be located to the western part of the field beyond the bend to the east. Submitted drawings show visibility splays extending to the east and west of the proposed access. The visibility splays were informed by speed surveys undertaken over two periods of consecutive days in September – October 2023 and January – February 2024. The highest 85th percentile speed recorded across the two surveys of 30.4mph (eastbound traffic) and 32.5mph (westbound traffic) results in a required visibility splay² of 2.4m x 43.8m to the east and 2.4m x 48.5m to the west of the site.
7. The submitted drawings show that the proposed visibility splay to the west, rather than being measured to the nearside kerb in line with Government guidance contained within Manual for Streets (MfS), would be offset by around 0.2 metres from that kerb. Whilst I accept that only a small part of the highway would not be visible as demonstrated by the appellant's evidence, the western visibility splay would nonetheless fail to meet the requirements of MfS in that respect.
8. Moreover, the drawing shows that the splay skirts the outer edge of the hedge bounding the front garden of the neighbouring property to the west. Whilst shown as having uniform depth on the plan, my impressions on site were that this hedge varied across its length. Given that this hedge is outside of the control of the appellant, there is no certainty that it would be maintained at the depth shown on the plan. Were the hedge to intrude into the visibility splay, it would be considerably shortened and visibility to the west would be significantly reduced. In such circumstances, drivers using the access and other road users would have insufficient warning of one another, resulting in an unacceptable risk of conflict.
9. Both parties have referenced within their statements Government guidance CA 185 Vehicle Speed Measurement 2019, which is part of the Design Manual for Roads and Bridges. At 3.1.1 this states that where speed measurements have been taken either partially or entirely in wet weather conditions, 4kph³ should be added to each individual speed recorded in wet weather. This includes periods after rainfall when the road surface is still wet.
10. Details of the prevailing weather conditions are absent from each day of the two sets of speed surveys. Nevertheless, the appellant argues that the weather conditions were dry on those occasions and has provided historic weather forecasts to support this. However, these relate to Whitby, some 5 miles away, and being historic forecasts, are not a record of the actual weather experienced at this time. They also only relate to the period between January and February and do not include the September – October period. The provision of this data is therefore not adequate substitute for evidence of the actual weather conditions in the vicinity of the appeal site throughout the two survey periods.
11. Nonetheless, despite the appellant's assertion, the appellant's evidence shows 0.2mm of rainfall was forecast over the three hour period between 1200 and 1500 on 4 February. For these above reasons I am not convinced by the appellant's argument that the weather was dry for the full extent of the two survey periods. I therefore cannot be certain that none of the speed records need adjusting for wet weather. Any adjustments would likely result in an increase in visibility requirements, and it has not been demonstrated that such increases could be achieved.

² Based on guidance contained within Manual for Streets 2 (MfS2).

³ For single carriageways.

12. Mindful of the nature of the existing highway and traffic levels, the proposal has failed to demonstrate that the appeal scheme would provide safe and satisfactory access to the site. I therefore conclude that the proposal would have an unacceptable impact on highway safety. It would conflict with Policies CO2 and CO7 of the North York Moors National Park Authority Local Plan (2020) insofar as they require new developments to be provided with a safe and suitable access.

Conclusion

13. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR