



Appeal Decision

Site visit made on 2 October 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/H0738/W/19/3221878

Hollybush Farm, Thornaby Road, Thornaby TS17 0HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Russell Teasdale on behalf of Hollybush Leisure Ltd against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 17/0389/OUT, dated 12 February 2017, was refused by notice dated 7 November 2018.
 - The development proposed is an outline application with some matters reserved for the erection of a 66no. bed hotel and banqueting building with associated means of access at Hollybush Farm, Thornaby Road, Thornaby, TS17 0HP .
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has confirmed at Part E of the appeal form that the description of development has changed from that stated on the application form. For precision, the description given in the heading above is therefore taken from the appeal form and the decision notice.
3. The revised description is a consequence of the scheme being amended during the period that the Council was considering it. It was amended from an 80no. bed hotel and banqueting building with associated means of access to the proposal set out above. The Council determined the application on the basis of these amended details, and I have done the same.
4. The planning application was submitted in outline with all matters except access reserved for later approval and I have dealt with the appeal on that basis. In addition to the red line boundary location plan however, a proposed site plan and site layout, a landscape sketch plan, hotel plan and elevations, banqueting hall plan and elevations and site sections were provided with the proposal. I have had regard to them so far as they are relevant to my consideration of the principle of the proposal and access.
5. In January 2019, after the Council determined the application, it adopted the Stockton-on-Tees Borough Council Local Plan (the LP). Consequently, Policies CS10 and CS2 of the Stockton-on-Tees Core Strategy (2010) cited in the Council's decision notice have been superseded. They are therefore not relevant to my consideration of this appeal, which must be determined in accordance with the current development plan.
6. However, notwithstanding that the LP did not carry full weight when the application was determined, the decision notice did cite emerging Policies SD5

and TI1(12). From the evidence before me, Policy ENV6 of the LP is also relevant. Moreover, the LP was adopted before the appeal was made. I am therefore satisfied that both parties were aware of and had the opportunity to comment upon these relevant LP policies.

7. On 19 February 2019 the Government published an updated revised version of the National Planning Policy Framework (the Framework). In relation to the main issues in this appeal, Government policy has not materially changed. Accordingly, no parties have been prejudiced by my having regard to it.

Main Issues

8. The main issues are the effect of the proposed development on:
 - The character and function of the green wedge;
 - Whether it would provide a safe vehicular access, with particular regard to right turn movements.

Reasons

Character and function of the green wedge

9. The 'L' shaped appeal site lies behind a petrol filling station (PFS) to the west of A1045 Thornaby Road, a main route running southwards from the settlement of Thornaby. It is close to the roundabout junction with the A174, an arterial road providing access to the wider Tees Valley. With the exception of the PFS and an adjacent pair of dwellings, this western side of the road within the vicinity of the appeal site is largely undeveloped. Along with Thornaby Wood to the north, the mature planting along the highway gives it a leafy character. This is reinforced by the wide verge with tree planting to the eastern edge, beyond which is the more urban Teeside Industrial Estate.
10. The ground level of the appeal site is slightly lower than the road and it slopes further to the west, towards the steep wooded embankment that follows Bassleton Beck. Beyond the Beck is the residential estate of Ingleby Barwick. The appeal proposal would introduce a hotel and separate banqueting facility with the vehicular access taken from the PFS. The indicative plans show a 66-bed hotel and a 100-seat banqueting facility, served by a car park with 114 spaces indicated.
11. The site has a long planning history for various types of development over many years, including for the PFS and kiosk approved in 1989¹ for which highway improvements to the access/egress were funded by the appellant. A series of applications relating to the construction of a replacement bungalow and the development of the land as a market garden with associated structures and work were also approved². Other applications, typically to vary the permissions, have been refused³. Nevertheless, of these, both parties agree that planning permission for this purpose approved in 2004⁴ remains extant.
12. Both parties also agree that the LP Policies map (2019) shows the site to fall within a green wedge designation. Within the LP, Policy SD5(i) confirms that

¹ Council Ref: S987/88

² Council Ref: 94/1922/P, 00/0008/P, 04/1348/FUL, 09/2760/VARY and 11/0554/VARY

³ Council Ref: 09/0132/VARY and 10/2146/VARY

⁴ Council Ref: 04/1348/FUL

development proposals within green wedges will be considered against LP Policy ENV6. The supporting text to this policy clarifies that green wedges serve a number of important functions, such as maintaining local character and the separate identity of built-up areas.

13. Part 4 of Policy ENV6 identifies 4 circumstances in which development within green wedges will be supported. In respect of 4(c) and 4(d), which relate to the effect on recreational opportunities and the impact on biodiversity, there is no dispute between the parties that the proposal would comply. I am satisfied that the site does not serve a public recreational purpose and whilst species such as deer and fox have been seen on the site, these are not protected by law. On the evidence before me, I have no reason to take an alternative view on these criteria. However, Policy ENV6 also establishes that to be supported, development must not (a) result in the physical or visual coalescence of built up areas and (b) not have a detrimental effect on local character or the separate identify of communities.
14. From my observations and the evidence before me, within the vicinity of the appeal site, the Bassleton Beck green wedge is relatively narrow. It incorporates not only the deep wooded valley that follows the alignment of the Bassleton Beck along its western edge but also, open areas of land, including the appeal site in its present form, and land/gardens associated with Hollybush Cottages to the south. Taken together, it provides a linear break between the settlements of Ingleby Barwick and Thornaby
15. The illustrative plans indicate that the proposal would extend across the majority of the site. Whilst the landscape sketch plan implies the provision of a grass area around the hotel, as well as a SUDS pond and a landscaped bund to the western boundary, the remainder would comprise either buildings or a car parking area. This would represent a significant change in the character of the land from its presently open form.
16. I accept that the deep Bassleton Beck valley provides a definitive edge to the eastern side of the Ingleby Barwick settlement. Nonetheless, the defined green wedge extends beyond it. Furthermore, even though the woodland planting either side of the Beck would be unaffected by the proposal and reinforced by a planted bund within the site, it would bring development much closer to the Beck and towards the residential estate on its western side.
17. This part of the green wedge is not entirely devoid of development. However, neither the PFS, Hollybush Cottages nor the substation span the width of the designation. Moreover, the appeal proposal would extend around the PFS. It would therefore be viewed within the context of this existing development, contributing to the extent of built form across the green fringe, with a cumulative visual impact as a result.
18. The proposal would also be evident from the surrounding area, including from Thornaby Road and the permissive path to the south of the site. Notwithstanding the dense woodland to its western edge, I observed on my site visit that it would be glimpsed from properties within Ingleby Barwick, such as those on Weaver Close, particularly as tree cover would be seasonal. It would therefore compromise the perception of a gap between the settlements and undermine the existing degree of separation between Ingleby Barwick and Thornaby.

19. The appellant contends that the 2004 extant permission for a market garden and bungalow represents a clear fallback position against which to assess the current proposal and I acknowledge that it would introduce buildings/structures onto the site. However, whilst the planning history indicates historic support from this purpose, it is not commensurate to a commitment to deliver it, as it is not the role of the Council to do so.
20. Furthermore, planning permission for the market garden and bungalow was originally granted in 1994. The extant consent also dates back approximately 15 years. In that time, from my observations on site, only the foundations to the bungalow have been excavated. I have nothing before me to indicate that the appellant has any experience of market garden operations nor evidence of an operator for such a purpose. I am therefore not persuaded that there is a genuine likelihood, or a greater than theoretical possibility, of this alternative use being followed through.
21. Furthermore, from the evidence before me, based upon the illustrative plans, whilst the hotel would sit in a similar position on the site to the approved market garden, with a comparable footprint, the latter would have a less solid form. The market garden building would be a courtyard structure with an extensive amount of glazing to the side elevations. It would result in a more lightweight and transparent addition to the green wedge. Moreover, whilst the bungalow would be extensive, it would be tied to the market garden and the proposed banqueting hall would, in any event, have a larger footprint. The extent permission also provided significantly fewer car parking spaces/hard-surfacing compared to the appeal scheme. It would therefore be less harmful as a result. Taken together, for these reasons, I therefore afford limited weight to the fallback position.
22. I have been referred to two appeal decisions relating to the development of land subject to the green wedge designation⁵. However, in each case, both pre-date the adoption of the current LP and the consequent clarity afforded to the green wedge boundary. Moreover, they were both for residential development of a scale where the benefits of the new housing were determined to be significant and make a relevant contribution to the Borough's housing stock, particularly in the absence of a 5-year supply of homes. For these reasons, I do not find them to be directly comparable to the appeal scheme.
23. The appellant has also drawn my attention to two decisions⁶ made by the Council within a green wedge. However, unlike the appeal proposal, they were both for housing development, granted prior to the adoption of the current LP. Moreover, they were determined at a time when the Council was unable to demonstrate a five-year supply, and both were considered to offer significant social and economic benefits that weighed in their favour. The third application referred to is also for housing and undetermined at this time⁷. Consequently, I do not find them to be directly comparable and in any event, I must determine the appeal scheme on its individual merits.
24. I therefore conclude that the proposal would be harmful to the character and function of the green wedge and it would contribute to the coalescence of settlements. It would therefore conflict with Policies SD5(i) and ENV6 of the LP

⁵ Appeal Refs: APP/H0738/W/15/3134512 and APP/H0738/A/14/2214781

⁶ Council Refs: 16/0323/OUT and 16/03079/OUT

⁷ Council Ref: 18/0195/OUT

(2019). When read together, these policies, amongst other matters, seek to ensure that proposals conserve and enhance the environment and within a green wedge, maintain local character and avoid the physical or visual merging of built-up areas to maintain their separate identity.

Highway Safety

25. The vehicular entrance into the appeal site would extend from a slip road via an existing access point from the PFS, albeit modified to facilitate coaches. A new exit lane would be created to merge onto the north side of the PFS forecourt so that traffic within the appeal site would effectively operate in a clockwise direction.
26. From Thornaby Road, the proposal would use the same separate access/egress as the PFS from the south/north respectively. In front of the 'entrance only' is a yellow box junction across the northbound carriageway. This keeps it clear for southbound vehicles turning right from a central ghost island. The exit only is split into two lanes, to turn left and right. At this point, the A1045 Thornaby Road is effectively four lanes. In addition to the ghost island, there are two northbound lanes and one southbound.
27. There is no dispute between the parties in respect of existing or proposed traffic flows, the latter based upon a 66-bed hotel and 100-seat banqueting building. In respect of the banqueting facility, I recognise that the Transport Assessment (TA) adopts a worst-case scenario, on the basis of a full event and occurring every day, with people arriving during the network evening peak. Both parties also agree that the site access arrangements could operate within capacity. On these matters, I have no reason to come to a different view.
28. The TA identifies that the existing PFS currently generates two-way turning movements of 143 and 135 vehicles in the AM (0800-0900) and PM (1700-1800) peak respectively. This would be equivalent to a maximum of 2.4 turning movements per minute. However, on the evidence before me, I am not persuaded that this constitutes a low-level use. Indeed, on my site visit, albeit a snapshot of prevailing highway conditions, I observed vehicles accessing and egressing the PFS on a fairly regular basis, even outside of the AM or PM peak.
29. The TA also indicates that the combined proposed trip generation would be an additional 19 and 52 two-way turning movements in the respective AM and PM peaks. This would, in my view, represent a noticeable difference, particularly in the PM peak. I appreciate that it would, on average, equate to less than one additional turning movement either in or out of the site every minute, which would be unlikely to result in any severe impact upon highway capacity. However, the Framework is also clear that development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
30. Turning to accident data, Government guidance on scoping a TA indicates that 3-5 years is the normally accepted study period for considering injury accident records on the public highway. It does, however, acknowledge that the scope and level of detail in a TA will vary from site to site⁸. In this case, the Council cite 7 right-turn accidents within the vicinity of the appeal site between 2000 and 2004. The appellants then identifies eight collisions between February 2005

⁸ Travel Plans, Transport Assessments and Statements Guidance (6 March 2014)

and December 2012 where the PFS is included within the location of the accident, either at the entrance or exit. In the majority of these recorded incidents, the accident description refers to one vehicle turning right across the path of another. They give weight to the Council's contention that making a right turn over two lanes of traffic in this location carries a particular risk.

31. I appreciate that there was a significant change to the local highway network in 2015 as a result of improvement works to the Thornaby Road/A174 junction, which included two dedicated lanes turning right. As a result, queues on Thornaby Road were minimised and within the traffic survey for the appeal scheme, queues did not extend as far as or across the entrance to the PFS and only occasionally across the exit.
32. However, the parties disagree on the extent that these works have contributed to a reduction in accidents in recent years, or whether it is a consequence of other factors, including a reduction in trade at the PFS, or a national trend of a reduction in collisions resulting in injury. Of the eight collisions between 2005-2012 cited above, only the minority specifically identify stationary or parked vehicles as a possible causation factor for the collision. Other reasons include a failure to look properly or a poor manoeuvre. I am therefore not persuaded that the main causation factor of collisions at the entrance/exit of the PFS was removed as a result of the Thornaby Road/A174 junction improvements.
33. It is the effect of the proposal on right-turn movements as a result of an intensification of use that is central to the dispute between the parties. The TA indicates that the proposal would result in 9 and 26 additional right turns in the AM and PM peak respectively. With existing flows, it would create 34 right turn movements in the AM peak and 63 in the PM peak. Irrespective of the percentage increase between existing and proposed right turn movements, these figures would not, in my view, be negligible.
34. It would, on average, result in an increase in all right turning movements from approximately 1 vehicle every 144 seconds(s) to 1 every 106s in the AM peak and from 1 every 97s to every 57s in the PM peak. This would still result in a right turning movement approximately every minute in the PM peak. Even focusing upon right turn movements into the site, given the absence of any collisions involving a vehicle turning right out of the appeal site since 2005, the proposal would increase them from one vehicle every 133s to one every 77s in the PM peak. This would still be one just over every minute. Furthermore, in practice, it would be unlikely to be so regular, particularly given the nature of a banqueting facility where visitors would typically arrive and depart at an event at a similar time.
35. Moreover, even though no accidents have been recorded over the last 5 years within the immediate vicinity of the access/egress of the site on Thornaby Road, and only one in the last 10 years, this does not guarantee that such an accident pattern would not recur as a result of the intensification of the access and the additional right-turn movements. On my site visit I also observed a segregated cycle/footway running along the western side of the carriageway, resulting in multiple hazards within the immediate proximity of the access. Within this context, the development would add more vehicles making difficult right turn manoeuvres across more than one lane of traffic on a busy road.
36. Taken together, I am not persuaded that the access would operate safely, and I conclude that the intensification of the access, with particular regard to right

turn movements, would be unacceptable. It would be harmful to the free flow of traffic and highway safety as a result. It would therefore conflict with Policy T11(12) of the LP (2019). This policy seeks to ensure, amongst other matters, that new development provides a suitable access for all people. It would further conflict with guidance within the Framework to ensure that development proposals provide a safe and suitable access for all users and do not result in an unacceptable impact on highway safety.

Other considerations

37. I recognise that the proposal is submitted in outline and in this respect, the Council have not raised specific concerns in the reasons for refusal about the effects of the scheme on a number of issues. These include the sequential assessment of the proposal as a town centre use, parking provision, its effect on the living conditions of existing residents with specific regard to privacy and loss of light, the environmental aspects of the proposal such as noise, light and odour, public safety and air quality. However, these are requirements that would have to be met for any scheme to be acceptable. They are not matters that diminish the harm that I have identified in respect of the main issues.
38. I acknowledge, however, that the Framework, amongst other matters, recognises that significant weight should be placed on the need to support economic growth and productivity, taking account of the needs of local businesses and wider opportunities for development. In this context, there would be some economic and social benefits arising from the proposal.
39. The hotel would provide tourist accommodation to serve the local area, including Thornaby, Ingleby Barwick and Yarm and the surrounding villages. There might also be some linked trips to Thornaby Town Centre and support for the existing PFS, as well as the potential to attract new business to the Industrial Estate opposite. It would also generate business rates and revenue for the Council. Furthermore, it would create employment opportunities, both direct and indirect, during the construction and operation phase. The extent of job creation cited by the appellant ranges from between 35 to between 50-100 depending on the end operator. Nonetheless, it would not be insignificant, and together, these factors all weigh in the scheme's favour.
40. However, having considered all matters, in my view the harm the proposal would cause to the character and function of the green wedge and on highway safety would be severe and lasting. It would also be contrary to the development plan policies set out above. Consequently, these benefits do not, in my view, amount to material considerations of such weight so as to overcome this conflict.
41. Within their evidence, the appellant has referred to the Council's processing of the application. However, in my determination of this appeal, I must have regard only to the planning merits of the case before me.

Conclusion

42. For the reasons set out above, the appeal is dismissed.

Kate Mansell

INSPECTOR