



Appeal Decision

Site visit made on 15 May 2017

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9 June 2017

Appeal Ref: APP/N1730/W/17/3169161

Land to the west of Hop Garden Road and to the north of Seton Drive, Hook

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Lyons of Flavia Estates against the decision of Hart District Council.
 - The application Ref 16/02301/FUL, dated 31 August 2016, was approved on 16 November 2016 and planning permission was granted subject to conditions.
 - The development permitted is the erection of a block of 3no. stables to include a feed store and tack room and the change of use of the land to allow the keeping of horses.
 - The condition in dispute is No 7 which states that: *There shall be no vehicular and or pedestrian access or egress from the site onto Hop Garden Road/adjoining access routes onto Hop Garden Road.*
 - The reason given for the condition is: *In the interests of highway safety and to satisfy saved policy GEN1 in the Hart District Local Plan.*
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Decision

1. The appeal is allowed and the planning permission Ref 16/02301/FUL for the erection of a block of 3no. stables to include a feed store and tack room and the change of use of the land to allow the keeping of horses at land to the west of Hop Garden Road and to the north of Seton Drive, Hook granted on 16 November 2016 by Hart District Council, is varied by deleting condition 7.

Background

2. Planning permission was granted in November 2016, subject to a number of planning conditions. This appeal relates to condition No 7 of that decision which is set out in full at the start of this decision. The appellant seeks to remove this condition on the basis that it fails the six tests set out in paragraph 206 of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the Guidance). The appellant raises whether the condition is necessary, relevant to planning, relevant to the development to be permitted and reasonable in all other aspects. The Council consider that the condition meets the relevant tests and should be retained.

Main Issue

3. The main issue is the effect of removing the condition on vehicular and pedestrian safety in Hop Garden Road and on the nearby public footpaths.
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Reasons

4. The appeal site is a parcel of land used to graze horses. Mature trees and shrubs line the northern site boundary. Beyond these is a public footpath that wraps around the eastern boundary of the site. This crosses over two small footbridges and provides a pedestrian link through to and around the dwellings found on Hop Garden Road. The path feeds into the lit footway on Hop Garden Road. Dwellings near to the appeal site in Hop Garden Road are relatively modern and generally benefit from off-street parking provision in the form of either or a combination of a driveway, garage or dedicated parking bays. The road serves a good number of dwellings in the wider estate. The road narrows in places along its length, with the view to managing traffic using the highway. It becomes a footpath next to 131 and 132 Hop Garden Road.
5. The appellant revised their plans during the course of the planning application which resulted in the removal of the path through to the eastern boundary. Nevertheless each of the six tests still needs to be satisfied in attaching conditions to planning permissions. Also, even if a condition does not require further details to be provided at a later date, it must be justified by the nature or impact of the development permitted. It must not also seek to remedy a pre-existing condition or issue not created by the proposed development.
6. Although highway safety is a valid consideration, the appellant clarified that only two vehicles would routinely access the site. One of these vehicles would access the site twice daily for feeding, cleaning and interaction with the horses. The other vehicle would visit less often, typically once a month to deliver feed, hay and cut grass. Despite this, the vehicles would use the access from Owens Farm Lane which is off Newnham Road. This arrangement would continue in the future, notwithstanding the increase in the number of stables and horses. Thus vehicles providing equine transport would not use Hop Garden Road and the footbridge on the public footpath would not need to be widened.
7. While concerns are raised about a vehicular access being formed from Hop Garden Road, the application did not seek to create one. Hence the control exerted by the condition is outside the scope of the planning permission.
8. Nevertheless, video evidence confirms Hop Garden Road is used for on-street parking. However there are no parking restrictions and each house near to the site on Hop Garden Road has off-street parking for their occupants. Given this, even if persons accessing the site did park their vehicles in Hop Garden Road, this would, due to the small number of stables and vehicle movements, mean that the number of vehicles parked here would be very limited. While I note the concerns about the use of the local road network and Hop Garden Road for vehicular parking, overall, there does not seem to be undue pressure on the availability of on-street parking on the road or the ability of vehicles, including the emergency services to satisfactorily use the highway.
9. Dwellings in Hop Garden Road generally offer family accommodation. Thus, the number of dwellings means that vehicle movements in the road will occur relatively frequently. I gather children use the road for play, but I am not satisfied that the proposal and the amount of potential vehicle movements, even if they did occur in Hop Garden Road would directly make highway safety matters worse, despite the concerns raised. Also, I do not consider that pedestrian movements or vehicle movements, if they occurred in Hop Garden Road would result in harm to residents living conditions.

10. The footway network near the site is well trodden and for public use. The appellant wishes to boost the site's pedestrian links. While the use of a stile is suggested, I do not consider a pedestrian access point onto the existing public footpath network would directly harm residents living conditions above and beyond the current use of the footpaths. Thus, I do not consider that it was necessary or relevant to the development to be permitted to control pedestrian access to or from the site, Hop Garden Road and nearby access routes.
11. So, even if the condition is precise and enforceable, I conclude that condition No 7 is not necessary, reasonable, relevant to planning and to the development to be permitted in the interests of highway safety. Removing this condition would not conflict with saved Policy GEN1 of the Hart District Local Plan. This seeks development, among other things, to make adequate arrangements for access, servicing or the parking of vehicles; not give rise to traffic flows on the surrounding road network that would cause material detriment to the amenities of nearby properties, including through traffic generation or to highway safety; and not to lead to problems further afield by causing heavy traffic to pass through residential areas or settlements, or use unsuitable roads.

Other matters

12. I gather the site has been subject of development proposals in the past, and I recognise residents' concerns regarding the appellant's future intentions for the site, in light of the scoping opinion for an Environmental Impact Assessment relating to the field beyond the Hop Garden field¹. However my findings relate to the appeal that is before me and planning permission would need to be sought for any housing scheme. This would be subject of public consultation.
13. I recognise the Parish Council's unwillingness to grant permission for any new access onto their land from the site and the current access arrangements for the site. I also note comments around the use of Newham Road. Nevertheless my findings relate to whether the disputed condition meets the relevant tests and planning policy and not civil matters. As planning permission has been granted for the stables and the use of the land, points around infrastructure such as water and electricity are not matters before me. Although concerns are expressed about matters linked to the disposal of bedding and manure, condition No 2 on the decision notice seeks to address these matters.
14. Even though an alternative address for the appeal site has been suggested by a resident, I have used the address from application form.

Conclusion

15. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

Andrew McGlone

INSPECTOR

¹ Ref: 17/00857/EIA