



Appeal Decision

Site visit made on 13 July 2010

by **Christopher Checkley**

BA(Hons) MRTPI

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

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Decision date:
3 August 2010

Appeal Ref: APP/N1350/A/10/2124814

Middleton Riding Centre, Sadberge Road, Middleton St George, Darlington, County Durham, DL2 1RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Alan Scott against the decision of Darlington Borough Council.
- The application Ref 09/00618/FUL, dated 3 September 2009, was refused by notice dated 9 December 2009.
- The application sought planning permission for erection of arena, stables, and storage buildings and extension to car park at Plantation Cottage, Sadberge Road, Middleton St George, DL2 1RJ without complying with a condition attached to planning permission Ref 06/00425/FUL, dated 27 July 2006.
- The condition in dispute is No 3 which states that: *Notwithstanding anything shown on the approved drawings a landscape buffer of 5m shall be provided on the southern boundary of the site, details of which shall be submitted to, and approved by, the local planning authority prior to the commencement of development and the development shall not be implemented other than in accordance with the approved scheme.*
- The reason given for the condition is: *To safeguard the amenities of adjoining residents.*

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the effect of removing the condition upon the living conditions of the residents of the neighbouring dwelling, Joans Palm, with particular regard to levels of noise and disturbance, visual impact and privacy.

Preliminary matter

3. I am using the address set out in the application which refers to the site as being Middleton Riding Centre.

Reasons

4. The original development, including the extension of the car park, was undertaken without compliance with the condition in question which required amongst other things the prior submission and approval of details of a 5m wide landscape buffer along the southern boundary with the detached bungalow, Joans Palm, to safeguard the amenities of its residents.

5. The bungalow has a very shallow curtilage on its north side, less than about 3m. Several of its windows face directly onto the boundary at this close distance. Inevitably this limits the level of amenity that can be achieved for the residents.
6. The proposed details of the 5m landscape buffer were submitted on 7 May 2009 and approved by the Council in a notice dated 23 June 2009. They were to consist of a 5m wide strip of grass separating the edge of the car park from the boundary between the appeal site and the dwelling.
7. However, this landscaping has not been undertaken. Instead, the appellant has recently erected a 2m high (approximately) close-boarded wooden fence along the shared boundary with the dwelling. The absence of the 5m buffer strip enables large vehicles to draw up, manoeuvre and park close to this fence and hence close to the bungalow windows.
8. The fence has provided some benefits for the bungalow's residents. Although it curtails the outlook of the residents of the bungalow, it provides a visual barrier up to a certain height, providing privacy and a partial attenuation of visual disturbance from the headlights and noise from vehicle engines, slamming doors, cab radios and any other vehicle-related activities undertaken nearby within the car park.
9. However, the new fence is insufficient to prevent vehicles parking very close to the fence where they are visible in part over the fence, creating an unacceptably overbearing visual impact, sometimes enabling a harmful sense of being overlooked by drivers from raised vehicle seats, and additionally resulting in greater noise disturbance than would be the case if the vehicles were required to be kept further away.
10. I have taken full account of all the representations made by the appellant. However, I saw that the parking area would remain extensive, even with a 5m buffer provided alongside the southern boundary. I see no reason why the commercial operation would be unacceptably hampered by its retention. Of course, this buffer requirement was known to the appellant before he decided to proceed with the development.
11. I conclude that removal of the requirement to provide a 5m buffer free from vehicles along the southern boundary would unacceptably harm the living conditions of the residents of Joans Palm, contrary to the objectives of Policies R14 and R15 of the Borough of Darlington Local Plan that seek to prevent noise and other disturbance to nearby residents from recreation-related and horse-related activities within the countryside. Therefore, the condition in question remains necessary and the appeal must fail.

C J Checkley

INSPECTOR