



# Appeal Decision

Site visit made on 20 June 2024

**by M J Francis BA (Hons) MA MSc MCIfA**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 July 2024**

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**Appeal Ref: APP/N1350/W/24/3342243**

**Land to rear of Hazelfield Cottage, Elstob Lane, Great Stainton TS21 1HP**

- 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 & Mrs Turner of Hazelfield Lodges Ltd against the decision of Darlington Borough Council.
  - The application Ref is 23/00588/FUL.
  - The development proposed is revised application for (retrospective) erection of 3no. holiday chalets with proposed secondary access, car parking and associated landscaping with part conversion of existing outbuilding into kitchen/seating and reception area.
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## Decision

1. The appeal is dismissed.

## Applications for Costs

2. An application for costs has been made by Mr and Mrs Turner which is the subject of a separate decision.

## Preliminary Matters

3. At the time of my visit the proposed development was partially complete, although the secondary access and internal access road had not been constructed.

## Main Issue

4. The main issue is the effect of the use of the proposed access on highway safety.

## Reasons

5. Hazelfield Cottage is a detached house with former stables and outbuildings located in the open countryside, surrounded by fields. The proposed development is to the rear and consists of three wooden chalets with hot tubs, which have been constructed and furnished. The former barn has been converted into a kitchen and eating area for guests using the chalets.
6. The site is accessed from Elstob Lane, a classified B-road with a speed limit of 60mph. The evidence suggests that this access has been used for many years including by a previous owner operating a business from the site, as well as the appellant running a livery and stables. Both these businesses involved frequent daily visits from customers and support staff.

7. The proposed development seeks the construction of a separate access for the holiday chalets from a field to the south-east of the existing entrance. However, the Council are concerned that based on the speed of vehicles on the road and the visibility at the proposed entrance, an appropriate visibility splay cannot be provided.
8. Whilst earlier speed surveys commissioned by the appellants have been discounted, a radar speed survey<sup>1</sup> recorded speeds at the 85<sup>th</sup> percentile of 51.6mph southbound and 51.2mph northbound. The appellants have also referred to a speed survey<sup>2</sup> along Elstob Lane for a planning application for a solar farm. This recorded combined speeds of 50.9mph and 51.1mph at the 85<sup>th</sup> percentile, over five- and seven-day periods.
9. Both speed surveys provide broadly similar speeds and evidence that the national speed limit along this stretch of road is suitable. However, there is disagreement between the parties as to the guidance that should be used to calculate the length of visibility splays at the access. Whilst the main parties' reference MfS<sup>3</sup>, the Council has calculated the visibility splays based on the DMRB<sup>4</sup>, whereas the appellant considers that this should be based on the guidance within MfS<sup>5</sup>.
10. The main parties also dispute the volume of traffic along this stretch of road, although evidence from regular surveys at Great Stainton suggest lower volumes than the Council has suggested. However, whilst Elstob Lane is a B road, the Council contends that it provides a strategic link between other A and trunk roads, and is close to the A1(M), which is why the DMRB guidance has been used. Based on the position of the road in relation to the surrounding network, I could see that the road is likely to provide this link. Moreover, when I was visiting, there was a regular stream of traffic passing the site.
11. The amount of traffic generated by the proposal would be small. Based on the size and layout of the chalets, there would be no more than 3 couples staying at any one time. This suggests 3 off-peak car trips each way in a day, entering and exiting the site. The appellants consider that most of their business would be over weekends only. The size and form of the chalets suggests that customers are unlikely to stay for any length of time.
12. I drove in and out of the existing access which has been altered by the appellants. A wall has been removed allowing a further set back and a wider opening. The access is located close to a bend in the road which rises upwards and limits visibility northwards in the direction of Great Stainton. The proposed new access, which the evidence suggests was in the past an entrance into a field, would be further away from the bend. Between the existing and proposed access, a mature hedgerow has been removed and replaced with a wooden fence and a field gate. This has increased the width of the verge along this side of the road.
13. If the MfS<sup>2</sup> guidance is applied, the relevant calculations would provide a visibility splay of 118 metres in both directions. However, even though the hedge has been removed and a vehicle exiting the access could see both right

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<sup>1</sup> 7 September 2023

<sup>2</sup> 15 March 2023

<sup>3</sup> Manual for Streets, March 2007.

<sup>4</sup> Design Manual for Roads and Bridges.

<sup>5</sup> Manual for Streets 2, September 2010.

and left, the rise in the road and the curve of the bend means that there is limited visibility of cars approaching the site from the north, as well as limited visibility from the south.

14. Directional signage to the chalets, and signs within the verge warning of the proposed access point are shown on the plans. However, these would result in signage within the public highway which requires separate approval by the Local Highway Authority (LHA). The Council, acting as LHA, has stated that such signage would not legally be allowed. Therefore, there would be no advance warning to drivers approaching the site at speed. Although turning left out of the site would be safer, cars turning right, having to cross into incoming traffic would likely cause greater potential for conflict.
15. Whilst MfS2 guidance is usually applied to B roads, based on the evidence, including from my site visit, a visibility splay of 118 metres would not be safe. Although some relaxation of the DMRB standards could be appropriate, the physical characteristics of this stretch of road and the speed of traffic means that the general guidance in the DMRB requiring longer visibility splays should be applied. This would not be achieved at the proposed access.
16. Reference has been made to no personal injury accidents in the past 23 years within 500 metres either side of the site. Notwithstanding this, and whilst I agree that there would have been far more vehicles using the existing access for previous uses of the site, customers to the holiday chalets would not be so familiar with the entrance and the road network, including the speed of traffic along Elstob Lane. This would be different to local refuse collection workers, who would be aware of the road conditions in this location.
17. The appellants have provided 'fallback arguments' which include providing lighting, CCTV, and additional information on the access within the terms and conditions of any booking. These are suggested as overcoming a lack of a visibility splay on paper. However, whilst lighting would make the buildings and access more obvious, the lack of visibility on the road would not make it safer for visitors or others driving along it. Although information on entering and exiting the site is useful, and CCTV could identify any problems and habits of those using the access, these are unlikely to ameliorate the safety concerns that I have identified. Therefore, these have limited weight.
18. The appellants have submitted a list of alleged inconsistent highway considerations. This includes applications at Carr House, located 200 metres from the appeal site, for holiday cottages<sup>6</sup> and a new house. Other applications, including a barn conversion<sup>7</sup> and applications at Skipbridge Farm and Neasham Springs Farm<sup>8</sup> for conversion into eight dwellings, have been referred to. However, even if some of these proposals would generate greater numbers of journeys than the appeal site, based on the submitted evidence, I cannot be sure that these are directly comparable to the case before me. It is the location of the proposed access on this specific area of bend in the road which raises the prospect for highway safety issues to arise.
19. A site at Hurworth Springs<sup>9</sup> where planning permission was granted on appeal is referred to by the appellants as there have been numerous road accidents on

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<sup>6</sup> Ref 13/00747/FUL

<sup>7</sup> Ref 20/00967/FUL.

<sup>8</sup> Ref 20/00967/FUL

<sup>9</sup> APP/N1350/a/08/2071080

the adjoining road and that scheme has significantly more vehicle movements than likely at the appeal site. The appeal decision is now of some age, and whilst a different assessment on highway safety was reached, I have determined this appeal on its own merits, based on the evidence before me.

20. The appellants contend that the Council has not justified using the DMRB standards and refers to 'Road lengths in Great Britain:2021'<sup>10</sup> which states that B roads are classified as minor roads managed by the local highway authority. They also consider that paragraph 115 of the National Planning Policy Framework (the Framework) was overlooked. Insofar as is relevant to the specific issue of highway safety, this states that 'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety'. All of these are matters of judgement for the decision maker. Therefore, I have based my decision on the evidence before me, including relevant national guidance.
21. The appellants have provided comments from Durham Constabulary regarding the process for reducing speed limits, as well as stating that numerous camping facilities/grounds are found where the national speed limit applies without causing issues. Whilst the appellants contend that a caravan and camping site could operate from the site which would result in far greater numbers of vehicle movements, this is not the proposal before me, and there is little to suggest such a use is in the offing. Therefore, I give this little weight.
22. There have been several letters of support for the application. These largely refer to the benefits of the chalets, which is not in dispute, the improved new access at Hazelfield Cottage, which is not part of the application, and the need for a speed trap and speed reduction outside the site. However, the speed surveys have identified that the national speed limit along this stretch of road is suitable. Therefore, these comments provide limited weight to the proposal.
23. Consequently, I conclude that based upon what I saw and the substantive evidence before me, it has not been demonstrated that the visibility splay for the proposed access would be adequate. Therefore, the use of the proposed access would have an unacceptable effect on highway safety.
24. The proposal would not accord with Policies DC1 and E4 of the Darlington Local Plan 2016-2036, adopted 2022. These policies combined require suitable and safe vehicular access which would not have an unacceptable impact on the local road network.

### **Other Matters**

25. The site is within the Impact Risk Zone of the Teesmouth and Cleveland Coast Special Protection Area (SPA) and the Teesmouth and Cleveland Coast Ramsar site. Under the Conservation and Habitats and Species Regulations 2017 (the Regulations), and as advised by Natural England, a Competent Authority must consider the nutrient impacts of projects and plans which affect habitat sites. Whilst evidence has been provided by the appellant<sup>11</sup> regarding this, as I am dismissing the appeal on other grounds it is not necessary for me to consider this matter further.

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<sup>10</sup> Appendix 14, March 2022.

<sup>11</sup> Report to inform a Habitats Regulations Assessment – Nutrient Input, Hazelfield Cottage, September 2022, on ecology.

## **Conclusion**

26. Whilst the proposed development would provide tourism and economic benefits to the local area, this does not, however, outweigh the concerns I have regarding the effect of the use of the access on highway safety.
27. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict.
28. For the reasons given above, I conclude that the appeal is dismissed.

*M J Francis*

INSPECTOR