



Appeal Decision

Site visit made on 21 June 2010

by **Michael Hurley BA DipTP MRTPI**

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

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**Decision date:
1 July 2010**

Appeal Ref: APP/W0734/A/10/2124347

Stainsby Hall Farm, Low Lane, Stainton, TS17 9LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mandale Commercial Ltd against the decision of the Middlesbrough Council.
- The application (Ref: M/FP/1212/09/P) dated 10 September 2009 was refused by notice dated 26 February 2010.
- The development proposed is the use of an agricultural building for commercial landscape business and associated horticultural purposes.

Summary of Decision: I allow the appeal and grant planning permission, subject to conditions, in the terms set out in the Formal Decision below.

Application for costs

1. An application for costs was made by Mandale Commercial Ltd against the Middlesbrough Council. This application is the subject of a separate decision.

Main Issues

2. The main issues in this case are first, whether the commercial use of the appeal premises would detract from the open character and tranquillity of this rural area; and second, whether the traffic generated by the proposed development would give rise to a significant safety hazard.

Background

3. The agricultural building that forms the subject of this appeal was erected as permitted development in 2007. It stands in open countryside, and is within a Green Wedge as shown in the Middlesbrough Local Plan. Access to the building is by means of a metalled, single-track road, which passes immediately to the south-west. I understand that this route provides an important link in the local network of public rights of way, and is well used by walkers. The access road joins Low Lane (A1044) about 400m to the south-east of the appeal site. The appeal premises stand about 80m to the south of the A174, a busy dual-carriageway road. The proposal is to use the agricultural building for the storage of machinery and materials used by a commercial landscaping business.

Rural Character

4. Policy E2 of the Local Plan indicates that development will not be permitted if it would affect the predominantly open character of the Green Wedge, or detract from the public's quiet enjoyment of this area. The proposed change of use of the existing building would not affect the open character of the Green Wedge,
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as the building is already in place. Policy EC6 of Planning Policy Statement 4 sets out the Government's approach to planning for economic development in rural areas. It indicates that local planning authorities should support the re-use of buildings in the countryside.

5. It is possible that the introduction of a commercial storage use could potentially give rise to more activity and traffic than the use of the building for agriculture. The appellant's evidence is that the landscaping business would employ approximately 10 people, who would visit the appeal site from time to time to collect machinery and other materials. No employees would be based permanently at the appeal premises. In the circumstances, traffic movements to and from the building would be limited.
6. I have no reason to doubt the appellant's intentions. In my view, the impact of the proposed change of use on the quiet enjoyment of the Green Wedge would be unlikely to be so great as to justify the refusal of planning permission. In reaching this conclusion, I have had regard to the proximity of the appeal site to the A174, and to the background noise from traffic using that road, which is clearly audible in the vicinity of the appeal premises.

Traffic Safety

7. Policy E23 of the Local Plan deals with the conversion or re-use of rural buildings. It indicates that the proposed use should not cause significant highway or amenity problems.
8. Although there are passing places along the road that gives access to the appeal premises, there are no footways. Forward visibility along this road is generally good, though it is partially obscured at a summit on the approach to the junction with Low Lane. This is a multiple junction, where visibility is somewhat restricted. I note that there have been 3 slight injury accidents at this junction within the past 5 years.
9. Nevertheless, the Council's Transport and Design Service have no objection to the proposed development. Their evidence, which I accept, is that the proposed use would be unlikely to increase the traffic flow to an unacceptable level. In the circumstances, I shall allow the appeal and grant planning permission.

Other Matters

10. The Council consider that warning signs should be installed to advise drivers of the potential hazard caused by the reduction in forward visibility due to the change in the vertical alignment of the access road between the appeal site and Low Lane. I agree, and will impose a planning condition along the lines they suggest.
11. The Council suggest that a condition should be imposed to preclude the use of the building for purposes other than those of a commercial landscape business and associated horticultural activities. It seems to me that the introduction of other storage and distribution uses, or the use of the building for ancillary retail sales, could have an adverse effect on the character of the Green Wedge, and on traffic generation and road safety. Accordingly, I shall impose a condition along the lines sought by the Council.

12. The external storage of equipment and materials to be used in off-site landscaping works could clearly detract from the open character of the Green Wedge. It is not proposed in the application. For the avoidance of doubt, I shall impose a condition to preclude open storage of this type.
13. I have taken account of all the other matters raised, including the representations concerning the planning history of the appeal premises. However, I do not find any of these factors to be sufficient to outweigh the considerations that have led me to conclude that the appeal should succeed.

Formal Decision

14. I allow the appeal, and grant planning permission for the use of an agricultural building for commercial landscape business and associated horticultural purposes at Stainsby Hall Farm, Low Lane, Stainton, TS17 9LG, in accordance with the terms of the application (Ref: M/FP/1212/09/P) dated 10 September 2009 and the plans submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Prior to the commencement of the use hereby approved, a scheme for the installation of warning signs in the vicinity of the blind summit on the access road shall be submitted to and approved in writing by the local planning authority, and signs shall be installed in accordance with the approved scheme. Thereafter, the signs shall be retained and maintained in accordance with the approved scheme.
 - 3) The premises shall be used for storage by a commercial landscaping and horticultural business, and for no other purpose (including any other purpose within Class B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order, with or without modification). There shall be no retail sales from the building to members of the public.
 - 4) There shall be no external storage of equipment or materials to be used in off-site works.

Michael Hurley

Inspector