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## Appeal Decision

Site visit made on 2 November 2015

**by Malcolm Rivett BA (Hons) MSc MRTPI**

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

Decision date: 16 November 2015

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**Appeal Ref: APP/Y2736/W/15/3130202**

**North Yorkshire Highways Depot, Manor Vale Lane, Kirkbymoorside,  
YO62 6EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Ms V Greetham.
  - The application Ref 14/00177/OUT is dated 6 February 2014.
  - The development proposed is erection of buildings for use class B1 (light industry) and B8 (storage and distribution) together with use of land for parking of vehicles associated with the B1 and B8 uses on site.
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### Decision

1. The appeal is dismissed and planning permission is refused for erection of buildings for use class B1 (light industry) and B8 (storage and distribution) together with use of land for parking of vehicles associated with the B1 and B8 uses on site at North Yorkshire Highways Depot, Manor Vale Lane, Kirkbymoorside, YO62 6EG.

### Preliminary Matters

2. The description of development set out on the original planning application form is "replacement depot building" although I understand that following submission of the application the appellant and Council agreed to amend the description to that indicated above and that it was on this basis that consultation was undertaken. The application was made in outline with all detailed matters other than layout reserved for future consideration and I have determined the appeal on this basis.
3. The Council's appeal statement sets out putative reasons for refusal including, in connection with the highway, damage to the carriageway and verges. However, in contrast, the statement's detailed discussion of highway matters (and the Highway Authority's consultation response on the application) refer to harm to the safety of vulnerable road users.

### Main Issues

4. In the light of the above I conclude that the main issues of the appeal are the effect of the proposal on:
  - Road safety;

- The living conditions of the occupants of nearby dwellings, having particular regard to noise and disturbance;
- Protected species; and
- The character and appearance of the area.

## **Reasons**

### *Road Safety*

5. Manor Vale Lane is of limited width and is, for the most part, without footways. In addition to the appeal site, this road provides access to a number of houses, a golf course, a band hall and a scout hut. These uses are likely to attract people to use Manor Vale Lane on foot or cycle, including children to the scout hut in particular. Given the restricted width of the road, and the likely presence of pedestrians and cyclists on the carriageway, increased use of Manor Vale Lane by larger vehicles would have the potential to be prejudicial to road safety, particularly that of more vulnerable road users.
6. Aside from the amended description of the development few details have been provided of the envisaged nature of operation of the proposal, although I note the appellant's statement that it would not be a waste transfer station. However, in view of the size of the site and proposed buildings and the intended Class B8 storage and distribution use, I concur with the Council that the proposal would have the potential to result in a significant number of large vehicle movements to/from the appeal site each day.
7. I appreciate that larger vehicles have traditionally used the road to access the, now closed, County Council Highways Depot on the site. However, as Highway Authority, the County Council would have been able to manage operation of the depot to ensure that its highway safety objectives were not compromised by activity at the site. Moreover, whilst noting the appellant's contention that it would be a significantly less intensive use with one operator, in the absence of specific details about the proposal I cannot be assured that it would not result in significantly more and/or larger vehicles using the road than did the Council Highways Depot. Furthermore, it seems to me unlikely that the recently permitted auditorium extension of the band hall would, once constructed, result in significant numbers of larger vehicles using Manor Vale Lane.
8. Consequently, on the information before me, I conclude that there is significant potential for the scheme to result in conditions prejudicial to road safety, and thus conflict with policy SP20 of the *Ryedale Plan – Local Plan Strategy*. This states that development which would result in an unacceptable risk to human life or safety will be resisted.
9. The appellant argues that a condition of a planning permission could control the nature of the development to one which would be acceptable in road safety terms. However, the precise wording of such a condition has not been suggested to me and, particularly in the absence of details of the proposal's intended operation, it is not clear that an appropriate and enforceable condition could be formulated. Moreover, whilst it might be feasible to restrict, by condition, the size of vehicles parking on the site, this would not prevent unsuitably large vehicles using the road to deliver or collect goods to/from the B8 use. Similarly, in the absence of any specific details about them, I

cannot be assured that there are any feasible improvement works to the road which would provide for safe access to/from the site by larger vehicles.

*Living conditions*

10. In addition to the dwellings fronting Manor Vale Lane there are houses in relatively close proximity to the site, albeit at a higher land level. In the absence of details about the intended nature of the operation of the proposal it is not possible to identify with any certainty the level of noise likely to be generated. However, as a general principle, there is a realistic potential for use of the buildings of the size proposed for light industry and storage/distribution (through the operation of machinery and fork-lift trucks etc and from the frequent coming and goings of large vehicles) to give rise to a level of noise which would cause significant disturbance to nearby residents when in their homes or their gardens.
11. Consequently, on the information before me, and notwithstanding the noise effects of other existing and proposed developments in the area, I cannot be assured that harm to the living conditions of nearby residents, and thus conflict with policy SP20's requirement that new development does not have an adverse impact on the amenity of neighbouring occupants, would not result from the scheme.

*Protected Species*

12. The submitted Ecological Assessment and the Addendum to it indicate the requirement for a licence to be obtained from Natural England in connection with the scheme and for measures, outside the appeal site, to mitigate the impact of the proposal on badgers. Whilst I am not aware of an up to date licence having been secured or there being any measures in place to ensure the mitigation is undertaken/implemented, neither is there any evidence to indicate that these requirements could not be met. Consequently, I am satisfied that these requirements could appropriately be secured by the imposition of a "Grampian-style" condition, and that on this basis no harm to protected species would result from the scheme. Conflict with Local Plan policy SP14's requirement that biodiversity will be conserved would thus be avoided.

*Character and Appearance*

13. The proposed parking area of the appeal site is within an Area of High Landscape Value. However, whilst the adjacent cliff faces are attractive it seems to me that parked vehicles would not significantly obscure views of the cliffs. In contrast the flat land, on which the vehicles would be parked, is currently unkempt and of low quality appearance. Moreover, since the access to the golf course passes through the middle of this area, vehicles (albeit moving ones) already are, and will continue to be, a feature of this location. In this context I am satisfied that, subject to suitable detailed design and landscaping (which could be secured by conditions/reserved matters), the parking of vehicles in this area would not result in material harm to the character and appearance of the area. There would thus be no conflict with the requirement of Local Plan policy SP13 that development should contribute to the protection of distinctive elements of landscape character.

*Other Matters and Conclusion*

14. I appreciate that some benefits would be likely to arise from the scheme, including the re-use for employment purposes of redundant, brownfield land and through the "tidying-up" of the site. It is also the case that the scheme would be acceptable in terms of its likely effects on protected species and the character/appearance of the area. However, I conclude that these matters do not outweigh the harm the scheme has the potential to cause to road safety and to the living conditions of neighbouring residents.
15. I have noted the appellant's statement that had she been aware of the Council's concerns during their consideration of the planning application further information could have been submitted. However, I can only determine the appeal on the basis of the information submitted to me, in the light of which I cannot be assured that the proposal would not cause the harm detailed above.
16. For the above reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission for the proposal refused.

*Malcolm Rivett*

INSPECTOR