

Appeal Decision

Site visit made on 30 November 2016

by J F Powis BA (Hons) MSc MRTPI

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

Decision date: 25 January 2017

Appeal Ref: APP/J9497/W/16/3155560

**Land at Brimley Lane, Road from Woodhouse Cross to Brimley Farm,
Higher Brimley, Bovey Tracey, Devon TQ13 9JT**

- 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 Mr D Ayliffe against the decision of Dartmoor National Park Authority.
 - The application Ref 0104/16, dated 22 February 2016, was refused by notice dated 18 April 2016.
 - The development proposed is the formation of a new access onto the highway.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of Dartmoor National Park; and,
 - whether or not the proposal would increase the risk of flooding of nearby properties.

Reasons

The Effect on the Character and Appearance of Dartmoor National Park

3. The appeal site is a parcel of land on the northern side of Brimley Lane. There is a small collection of detached residential properties along the southern side of the lane but despite this, the area has a tranquil, rural character. The part of Brimley Lane in the vicinity of the appeal site is narrow and characterised by hedgebanks of a considerable height along both sides of the road.
 4. The existing hedgebank along the northern side of this part of Brimley Lane is, due to its considerable height and density, a prominent and defining feature of the locality. It is in a good state of upkeep and makes an important contribution to the character and appearance of the site and surrounding area. Access to the appeal site is currently via a small wooden pedestrian gate which is recessed back from Brimley Lane at an approximate right angle to the road. As such, views of the gate when approaching from a south westerly direction along Brimley Lane are substantially shielded by the existing hedgebank. Overall, the existing gate is of a modest appearance in its context.
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5. The proposal seeks to provide a new vehicular access to the site from Brimley Lane at a location slightly south west of the existing pedestrian gate. Due to the topography of the land, which slopes steeply from north west to south east, the appeal site sits at some height above the level of the lane. Accordingly, the new access would comprise a ramped area of hard surfacing curving in a south westerly direction to a new gate opening into the field beyond.
6. Policy DMD38 of the Dartmoor National Park Authority Development Management and Delivery Development Plan Document (adopted July 2013) (DMDDPD) states that new access onto a public highway will only be permitted where a safe access can be provided in a way which does not detract from the character and appearance of the locality. The supporting text to the policy at paragraph 2.22.11 explains that hedgebanks and hedges add greatly to the character of Dartmoor's road network and care must be taken to protect the quality of these landscapes.
7. This echoes the requirement in Policy DMD5 of the same plan that development should conserve and/or enhance the character and special qualities of the Dartmoor landscape, including by retaining, integrating or enhancing distinctive local natural and semi-natural features and by respecting the valued attributes of landscape character types identified in the Dartmoor National Park Landscape Character Assessment (June 2010).
8. The appeal site sits within Landscape Character Type 3A, which is defined as 'Upper Farmed and Wooded Slopes'. Key characteristics of the area are identified as a rich hedgerow network and well-treed character resulting in an enclosed and unified landscape. Valued attributes include winding lanes enclosed by thick hedgerows, of which Brimley Lane is a good example. In this context, I consider the hedgebank to be worthy of protection and conservation where possible.
9. The appellant states that the proposal would involve the removal of approximately nine metres of the existing hedgebank along Brimley Lane. It would also involve the planting of new hedgerow, most of which would be on the retaining banks bounding the access ramp, with some toward the front of the site where a new tree is also proposed. However, whilst this may constitute a net gain in hedgerow planting on the site, I am not satisfied that the new planting would mitigate the loss of the established hedgebank that tightly follows the edge of the lane and marks the historic field boundary, which is an important characteristic of the area.
10. Due to the rising level of the ground, views into the new access from Brimley Lane would be dominated by the new retaining banks on both sides of the opening and toward the rear of the site. Furthermore, the insertion of a significant amount of new hard surfacing on the access ramp would appear as an incongruous feature in this predominantly rural setting, particularly given the undeveloped character of the northern side of this part of Brimley Lane.
11. On my visit, I viewed the locations highlighted by the appellant in his submitted photographs and saw that there are occasional breaches in the hedgerow along the surrounding parts of Brimley Lane to allow access to agricultural land and residential properties. Notwithstanding this, I consider that the width of the proposed access, the height of the required retaining banks and the extent of its hard surfacing, would be likely to result in a more prominent feature than most other existing access points along the lane.

Furthermore, whilst Brimley Lane is relatively enclosed by high hedgebanks, it is also fairly straight in the immediate vicinity of the appeal site, meaning that the new access would be visible for some distance on the approach from both directions along the lane.

12. Taking all of the above considerations together, I conclude that the proposal would have an unacceptably harmful effect on the character and appearance of the area and consequently of Dartmoor National Park.
13. I therefore find conflict with Policies COR1 and COR3 of the Dartmoor National Park Authority Core Strategy Development Plan Document 2006-2016 (adopted June 2008) and Policies DMD5 and DMD38 of the DMDDPD, which together seek to protect Dartmoor's special environmental qualities. It would also be contrary to advice contained in the policy paper 'English National Parks and the Broads: UK Government Vision and Circular 2010', and the National Planning Policy Framework, insofar as they require great weight to be given to conserving landscape and scenic beauty in National Parks.

Whether or Not the Proposal Would Increase the Risk of Flooding of Nearby Properties

14. As noted above, the field and copse which would be served by the new access slope steeply from north west to south east. Local representations have expressed concerns that providing the new opening at the bottom of the slope could put residential properties on the southern side of Brimley Lane, which are set at a level below that of the appeal site, in the path of surface water run off which could increase the risk of flooding. The Council's second reason for refusal states that insufficient information has been submitted to demonstrate that the proposed drainage measures would not increase the risk of flooding of nearby property.
15. The appellant has subsequently undertaken further testing and submitted a revised version of the drainage design report (dated 27 June 2016) with the appeal which concludes that no flood risk to the highway or nearby dwellings would arise from surface water run off as a result of the proposed works.
16. The revised report seeks to address the areas previously highlighted by the Council as providing insufficient information. This includes undertaking further soakaway testing in accordance with the guidance in BRE Digest 365 and providing details of the proposed driveway construction together with plans indicating the positions of the soakaway and ACO slot drain. The appellant contends that it would be possible to secure the necessary surface water drainage measures via planning condition.
17. Having considered the details of this case, I agree that it would be possible to impose a planning condition requiring that full details of surface water drainage measures to be implemented and maintained are submitted to and approved by the local planning authority prior to commencement of the development. I am satisfied that this would ensure that the revised drainage pattern resulting from the proposals would be appropriately mitigated.
18. On this basis, I conclude that the proposed development would not increase the risk of flooding of nearby properties. As such, the proposal would satisfy the requirements of Policies COR1 and COR8 of the Dartmoor Core Strategy and Policies DMD1a and DMD3 of the DMDDPD, which together require that

development allows for the natural drainage of surface water and minimises the risk of flooding of property and land.

Planning Balance and Conclusions

19. The appellant states that the proposal would provide access to his wider land holding along the north western side of Brimley Lane for management and maintenance by agricultural vehicles where none currently exists. He states that this is essential for the use of the land for agricultural purposes and I accept that the proposal would be of considerable benefit to the efficient management of the land for agricultural use. The absence of harm in respect of flood risk is a neutral consideration in my assessment.
20. However, I am mindful that National Parks have the highest status of protection in relation to landscape and scenic beauty. On balance, I do not consider that the benefits of the proposal are sufficient in this case to outweigh the unacceptable harm to the character and appearance of the National Park that I have identified.
21. For the reasons given above I conclude that the appeal should be dismissed.

J F Powis

INSPECTOR