



Appeal Decision

Site visit made on 11 June 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd August 2019

Appeal Ref: APP/M9496/D/19/3225375

3 Wheatlands Lane, Baslow DE45 1RF

- 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 Ms S Nutbeam against the decision of the Peak District National Park Authority.
 - The application Ref NP/DDD/0117/0012, dated 6 January 2017, was refused by notice dated 5 February 2019.
 - The development proposed is pedestrian/vehicular access and driveway.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The Peak District National Park Development Management Policies Document 2019 (the DMP) was adopted by the Local Planning Authority (LPA) on 24 May 2019 as Part 2 of the Local Plan for the Peak District National Park area. This suite of policies now form part of the statutory development plan and I have therefore had due regard to this in my decision. Specifically, saved policy LT18 of the Peak District National Park Local Plan 2001, which is quoted in the LPA's refusal notice, has now been replaced by DMP policy DMT3 and as such the parties have been provided with an opportunity to comment on this policy change in so far as it relates to the appeal proposal.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019 and this post-dates the Council's refusal notice. I have had regard to the revised Framework in my decision and I am satisfied that this has not prejudiced either party.
4. At the site visit I could see that an area of ground has been excavated at the approximate location where the development is proposed, although it was not clear if these works are directly associated with the proposal. Given this uncertainty I have not considered this appeal as a retrospective nor part-retrospective proposal.

Main Issue

5. The main issue is whether, in the absence of an appropriate legal agreement, the proposal would result in harm to highway safety.

Reasons

6. The appeal property is a house located to the south of Wheatlands Lane which is a narrow rural lane leading into the countryside to the west of Baslow. Like a number of neighbouring houses, the appeal site does not have a vehicular access nor off-street parking facilities. The topography of the area is such that the carriageway along this part of Wheatlands Lane sits approximately 1 to 2 metres lower than the adjacent land on either side of the road. The adjoining land is therefore bound by a mix of retaining stone walls and embankments topped with hedging and domestic fencing.
7. The combination of these features means that the inter-visibility between a vehicle using the proposed driveway and users of the adjacent highway would be significantly constrained without the provision of sufficient visibility splays. To address this, the proposal includes works to reduce the northern boundary of the site and to carry out works to the adjoining land and highway boundary to the west of the proposed driveway. The Highway Authority have confirmed that a suitable visibility splay is achievable if these works can be secured and thereafter retained. However, in a westerly direction the required visibility splay, as shown on the proposed plans, includes land that is not within the ownership or control of the appellant.
8. In the absence of a legal agreement to provide the necessary visibility splays, due to the restricted nature of the site, the change in land levels, and the tall boundary along the roadside to the west of the proposed driveway, a driver of a car would have severely restricted views along the road when exiting out onto Wheatlands Lane. So much so that a large proportion of the vehicle would need to manoeuvre onto the carriageway before its driver could clearly see other vehicles or cyclists approaching along the road from the west. Although the road is narrow and therefore vehicles may be passing the appeal site at relatively low speeds, the narrowness of the road limits the scope for users of the highway to manoeuvre out of the way of a vehicle entering or leaving the proposed driveway.
9. The neighbouring landowner has confirmed that they would be happy for vegetation to be cut back along the highway boundary in order to enable a sightline to be created. I note this boundary comprises a retaining wall, an embankment and is topped by a mature field hedge, which, given its scale and positioning in relation to the proposed driveway, is likely to require significant alteration/realignment to provide an adequate visibility splay.
10. Consequently, the letter from the neighbour is not sufficient in itself to secure the works to provide the necessary visibility splay nor its ongoing retention. A planning obligation would provide a legal mechanism to ensure the provision and retention of the required visibility splays. The appellant has declined to provide an obligation and therefore in the absence of such an agreement, I find that the necessary visibility splays cannot be provided and retained.
11. I have considered whether the use of planning conditions could achieve the required visibility splays. However, the Planning Practice Guidance is clear that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability¹. I have also considered the use

¹ PPG Paragraph: 009 Reference ID: 21a-009-20140306

of a 'Grampian' style condition, prohibiting development until adequate visibility splays can be provided, although in this case such a condition would not secure the ongoing provision and maintenance of the splays rendering the condition unreasonable and unenforceable.

12. I note that *Manual for Streets 2* suggests that a reduction in visibility below the recommended levels will not necessarily be a problem and that following the submission of speed survey results the Highway Authority has accepted a reduction in the visibility splay requirements. However, in the specific circumstances of this case the appellant is unable to secure an adequate sightline to the west of the proposed driveway and without this the proposal would have a significant adverse effect on highway safety.
13. Consequently, I find that the appeal proposal would pose an unacceptable risk to users of the highway along Wheatlands Lane. Thus, it conflicts with policy DMT3 of the DMP and Section 9 of the National Planning Policy Framework (NPPF) which, amongst other things, seek to ensure that new development does not compromise highway safety.

Other matters

14. I note the representation from a nearby neighbour who supports the provision of off-street parking in order to improve parking in the locality. However, this does not alter my overall conclusion.

Conclusion

15. For the reasons I have set out, I dismiss the appeal.

Jeff Tweddle

INSPECTOR