



Appeal Decision

Site visit made on 20 August 2019

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2019

Appeal Ref: APP/P1045/W/19/3230490

Agricultural Lane off Kniveton Lane, Offcote, Derbyshire DE6 1JQ

- 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 Tony Kemish against the decision of Derbyshire Dales District Council.
 - The application Ref 18/01345/FUL, dated 30 November 2018, was refused by notice dated 28 January 2019.
 - The development proposed is planning application to agricultural access to land previously without access for work which would be covered under Agricultural Permitted Development Part 6, for which a formal prior notification was not served to the local authority.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Section 55 of the Town & Country Planning Act 1990 (as amended) defines "development" as including "the making of any material change in the use of any building or other land". I have not therefore used the term "retrospective" in the banner heading above as it is not an act of development.

Background and Main Issues

3. The appellant states that the works would not have required consent under Part 6 (Agriculture and Forestry) of the Town and Country Planning (General Permitted Development) (England) Order (2015) if the correct legal paperwork had been presented to the Council. Nonetheless, this was not carried out and a planning application was submitted. The works could no longer benefit from the Part 6 exception, and therefore I must determine the appeal upon its own merits.
4. Therefore, the main issues in this appeal are the effect of the development on both the character and appearance of the area, and highway safety.

Reasons

5. I understand from the information provided that the access is required to service a parcel of agricultural land due to a change in boundaries. My site visit confirmed that the access point was already in-situ.

Character and appearance

6. The site is located in a rural area, and Kniveton Lane is a narrow, single-track rural road. The approach toward the access point along Kniveton Lane is

characterised by dense vegetation to either side of the highway that frames the highway, creating a traditional vista often seen in rural areas.

7. The loss of a substantial section of this hedgerow, and replacement with surfacing to form the access and fencing to amend the boundary, has caused significant harm to the character and appearance of the rural locality, creating an exposed semi-industrial appearance within this location.
8. I note the comments of the appellant that there are a number of other access points on Kniveton Lane. From my site visit, I did see that there were other access points, but generally these serve agricultural premises, and access points into fields directly from Kniveton Lane are extremely limited.
9. Therefore, I find that the development causes harm to the character and appearance of the area, and is therefore contrary to Policies S4, PD1, PD5 and PD6 of the Adopted Derbyshire Dales Local Plan (2017) (the DDLP), which when taken as a whole, amongst other matters, states that development should protect the character and appearance of the landscape, maintain the aesthetic and biodiversity qualities of the landscape, such as hedgerows and should be retained where possible.

Highway Safety

10. Kniveton Lane is subject to the national speed limit, but from the evidence provided by the Council indicates that vehicle speeds are approximately 20mph. As a result, the Highway Authority have stated that the visibility splays should be commensurate with passing vehicle speeds, which would be 2.4m x 25m in both directions. The Highway Authority have measured the achievable visibility splays at less than 10m due to the obstruction from the high hedges. From my site visit, I would concur with this calculation.
11. The access is therefore substandard, in terms of achievable visibility splays. From the evidence provided, it appears that the land required to allow the correct visibility splays is under the ownership of the appellant, but this would require the removal of a considerable amount of additional hedgerow. I have identified the harm caused by the removal of the existing hedgerow in the other main issue, therefore the loss of additional hedgerow would be totally inappropriate.
12. The appellant has raised the issue that the access is used infrequently, with an indicated use of once a month, as well as pointing out the slow vehicle speeds on Kniveton Lane and the elevated vantage point of agricultural vehicles allowing additional visibility. In addition, the appellant states that the access also allows for a new passing point on Kniveton Lane.
13. The number of times that the access is used cannot be controlled effectively, and while this could be infrequent use, it still remains that correct visibility splays cannot be provided without causing significant harm to the character and appearance of the area. The splays required by the Highway Authority are based on a slower passing vehicle speed of 20mph, whilst the road itself is subject to a national speed limit, which vehicles could reach. I find the requirements of the Highway Authority to be more than reasonable.
14. In addition, it cannot also be controlled that only agricultural vehicles with high vantage points are used in order to increase visibility. The additional passing point provided on Kniveton Lane by the access is not a positive matter in

favour of the proposal and brings into question that levels of traffic are greater than indicated if another passing place is required.

15. To conclude on this issue, I find that the appeal proposal is contrary to Policies S4 and HC19 of the DDLP, which collectively expect development to have a safe access and not impact on the highway network.

Conclusion

16. Therefore, for the reasons above, I conclude that the appeal should be dismissed.

Paul Cooper

INSPECTOR