



Appeal Decision

Site visit made on 12 November 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Appeal Ref: APP/Y9507/W/19/3234979

Matterley Farm, Alresford Road, Ovington SO24 0HU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter the 'GPDO').
 - The appeal is made by Mr Peveril Bruce against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/02602/APNR, dated 29 May 2019, was refused by notice dated 4 July 2019.
 - The development proposed is construction of two farm tracks for agricultural purposes - one on the western margins of farm adjoining Percy Hobbs Roundabout (Track A) and the other to the eastern edge of the farm close to the junction between A272 and Rodfield Lane (Track B).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A, paragraph A.2 of the GPDO, for construction of two farm tracks for agricultural purposes - one on the western margins of farm adjoining Percy Hobbs Roundabout (Track A) and the other to the eastern edge of the farm close to the junction between A272 and Rodfield Lane (Track B), at Matterley Farm, Alresford Road, Ovington SO24 0HU, in accordance with the application SDNP/19/02602/APNR made on 29 May 2019, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 6, Class A, paragraph A.2(2)(i) and (ii) of the GPDO.

Procedural Matters

2. I have taken the description of the proposed development from the decision notice as none is provided on the application form. I note that this has also been used by the appellant on the appeal form. I have however edited the description to remove the repetition of 'other'.
3. The decision notice states that prior approval is required but does not explicitly state that prior approval is refused. However, looking at the notice as a whole, including the reasons as set out, I consider that it is reasonable to read the notice as a refusal of prior approval.
4. The Authority and interested parties have raised concerns that the 2 private ways subject of the appeal would not be reasonably required for agriculture, and thus that they would not fall within the scope of Schedule 2, Part 6, Class A, of the GPDO (hereafter 'Class A'). In this context extensive reference is made to both agricultural and other activities which take place on the estate.

However, the prior approval procedure applicable to Class A provides no power to determine whether or not the proposed development would come within the description of the development it permits, would comply with the conditions, limitations or restrictions applicable to it, or therefore, whether it development in question would be 'permitted development'. I cannot therefore purport to decide this matter. In this regard, given that the requirement for prior approval is akin to a pre-commencement condition attached to a grant of planning permission by Article 3(1) of the GPDO (Article 3(1)), in the event that development was not constructed in accordance with the terms or conditions of that permission it would be at risk of enforcement action.

Main Issue

5. The development involves the formation of one private way and the alteration of another. In this regard paragraph A.2(2)(i) of Class A requires the local planning authority to assess the development solely on the basis of siting and means of construction. Consequently, the main issue is the effect that the siting and means of construction of the private ways would have on the character and appearance of the area, including the South Downs National Park (the National Park).

Reasons

6. The appeal site lies in the National Park. As such I have had regard to the statutory purposes of the designation, and to paragraph 172 of the National Planning Policy Framework (the Framework), which indicates that great weight should be given to the conservation and enhancement of landscape and scenic beauty within National Parks.
7. Track A already exists, and would be formalised through the construction of a hard surface. The track runs along the side of a large field, the outer edge of which is lined by heavy vegetation which separates it from the A31. This band of vegetation provides effective screening of both the field and the track from the A31, and furthermore provides Track A with a strong visual anchor.
8. Ground levels rise within the field along much of the central and northern sections of Track A. In consequence of this, only a short section of the track can be viewed from outside the field, and this view is itself only clear along a very short length of the A272. This section of the road otherwise dominated by the adjacent junction of the A272 with the A31 and related highways infrastructure.
9. I visited the site during a period of wet weather. It is reasonable to consider that this was representative of normal autumn and winter conditions during most years. Though the surface of Track A may be hard during the summer, and parts might even be colonised by vegetation, its surface was deeply rutted and muddy when I visited. Vehicles seeking to avoid the rutted surface had effectively caused the track to widen, and there was little trace of surface vegetation. The broad, churned and rutted appearance of the track could not have been reasonably described as attractive or 'low key'. Indeed, the section of the track visible from the A272 was made more apparent by its poor condition. I have no reason to believe that the conditions I saw were unusual.
10. Construction of a formal surface would involve minimal 'engineering', and would follow guidance published by Hampshire County Council. This guidance

appears to be chiefly tailored towards footpaths and bridleways, as opposed to tracks likely to be used by farm vehicles; nonetheless a solid surface would be provided. As this would help to prevent surface churning and related lateral spread, it would help to improve the appearance of Track A, and particularly the section of it which is publicly visible. For this reason, and view of the very limited exposure of Track A within the surrounding landscape, no harm would be caused with regard either to its siting or construction.

11. Track B would adopt the same construction as Track A. It would again be sited within a large field, linking up with existing tracks, and largely following a field boundary. The lack of any significant vegetation along this boundary would reduce the extent to which the boundary provided a visual anchor for the track, and none would exist where a section of the track ran across the field. Views from outside the field would however again be very limited. Rising ground levels would prevent any clear view from the A272, and only part of the track would be visible over a long-distance from Rodwell Lane, around the point where it is crossed by the South Downs Way. Given the distance, the limited nature of the viewpoint, and taking into account the seasonal growth of crops either side of the track, it is unlikely that either its siting or construction would appear intrusive or noticeable from this location.
12. Whilst broader visibility of the tracks would be very limited, it can be reasonably anticipated that the surfaces of each would weather over time. This would be likely to include some gradual colonisation by vegetation as soil formed or was deposited on their surfaces. In each regard the tracks would become less visually apparent and more naturalised over time. As such, and in view of my findings above, I see no reason to consider that the siting and/or construction of either track would cause them to be perceived as 'industrialising' or 'urbanising' features within the landscape.
13. My attention has been drawn to other hard surfaced tracks on the estate. However, whether or not these other tracks cause harm in landscape terms, I have found that Tracks A and B would not. Furthermore, as the broader visibility of the Tracks A and B would be very limited, it follows that perception of the tracks in relation to others would likewise be very limited, and therefore give rise to no harm in itself.
14. Interested parties suggest that the development would have an adverse impact on tranquillity. The Authority has also highlighted concerns expressed within the South Downs integrated Landscape Character Assessment related the impact of traffic on remoteness. The proximity of the A31 and A272 to Track A, and the A272 to the field in which Track B would be sited however limit any sense that either location is remote or tranquil. This is due to the traffic these roads carry, and the noise that this generates. Furthermore, it can be reasonably anticipated that farm vehicles would operate within, or pass through and around the fields in question whether or not the development took place. Aside from this it is unlikely that the construction of the track surfaces would itself generate a level of additional noise that was noticeable when the tracks were in use by vehicles, particularly when set against background traffic noise.
15. For the reasons outlined above I conclude that the siting and construction of the tracks would not harm the character and appearance of the area, including the National Park. Insofar as it is a material consideration, the development

would not therefore conflict with Policy SD4 of South Downs Local Plan Adopted 2 July 2019 (2014–33) (the LP), which states that development proposals will only be permitted where they conserve and enhance landscape character; Policy SD6 of the LP, which amongst other things states that development proposal will only be permitted where they preserve the visual integrity, identity and scenic quality of the National Park; and relevant provisions of the Framework. Whilst Policy SD39 of the Local Plan was also cited by the Authority, this relates to building and structures rather than private ways.

Other Matters

16. Interested parties suggest that adverse impacts on insects, birds, and archaeology would arise as a result of the development. The Authority has not voiced similar concerns, and in the absence of any firm evidence that any harm would be caused, I see no reason to reach a different view.
17. I acknowledge allegations by interested parties that unauthorised development has taken place elsewhere on the estate. However, whether or not this is true, it is not a matter for me to consider in the context of this appeal.
18. I lastly note the concern that granting prior approval would mean that exploitation of the estate for further large-scale commercial recreation or hydrocarbon exploitation would be difficult to resist. However, whilst each feature within the planning history of the estate, I see no obvious or logical reason why this should be the case.

Conditions

19. Any planning permission granted for the development under Article 3(1) and Class A is subject to the conditions which are set out in paragraph A.2 of Class A.
20. The Authority has suggested a number of additional conditions. However, Class A does not provide any authority to impose such conditions. Two of the suggested conditions otherwise relate to the prior approval matter of construction, which has been already addressed by the appellant. The third relates to site restoration, which is a requirement specifically imposed within Class A in relation to buildings, but not private ways. I have not therefore imposed the conditions requested.

Conclusion

21. For the reasons set out above, I conclude that the appeal should be allowed, and prior approval granted.

Benjamin Webb

INSPECTOR