



Appeal Decision

Site visit made on 16 December 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 17 January 2020

Appeal Ref: APP/N4720/C/19/3232308

6 Hillcrest, Harrogate Road, Bramhope, Leeds LS16 9HX

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Pernaik Singh against an enforcement notice issued by Leeds City Council.
 - The enforcement notice was issued on 6 June 2019.
 - The breach of planning control as alleged in the notice is *Without planning permission the formation of a vehicular access onto a classified road*.
 - The requirements of the notice are:
 - (1) Cease the use of the land for the parking of motor vehicles/mechanically propelled vehicles and any caravans; and
 - (2) Reinstate the Boundary wall and hedge that existed prior to the creation of the vehicular access; match its form and appearance (using the removed stone or salvaged stone of the same or similar quality).
 - The period for compliance with the requirements is:
 - (1) For step 1 – the date the notice comes into effect; and
 - (2) For step 2 – within four months of the date the notice comes into effect.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Summary Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matter

2. The notice alleges the formation of a vehicular access onto a classified road as the matter appearing to constitute the breach of planning control, an engineering operation. The first requirement is however to cease the use of land at the appeal site for parking. As the notice is not directed at a use of land, this requirement exceeds what is necessary to remedy the alleged breach. Furthermore, no period for complying with the notice is specified, as required by section 173(9) of the 1990 Act as amended. "The date this Notice comes into effect" is not a period. The notice could be corrected to omit the first requirement but, as I am quashing it for other reasons, this is unnecessary.

The appeal on ground (a)

Main Issues

3. The appeal site lies within an area of designated Green Belt, where government policy in the National Planning Policy Framework ('the Framework') identifies that inappropriate development is harmful by definition. Certain forms of

development are not inappropriate subject to preserving the openness of the Green Belt and not conflicting with the purposes of including land within it. Those forms may include engineering operations. It is not contended that the development that has been carried out is inappropriate in the Green Belt, and I have no reason to disagree.

4. The main issues arising in the appeal are therefore the effects of the development on existing conditions of highway safety and on the character and appearance of the area.

Existing conditions of highway safety

5. The access that has been created is onto the A658, a top tier classified road between Bradford and Knaresborough. It is described by the Council's Street Design Guide of 2009 ('the SDG') as a Strategic Route, and it is a significant arterial road giving access to the nearby Leeds-Bradford airport.
6. The access that has been created meets the road where the speed limit is 40mph. It is however very close to a change in the speed limit from 40mph to 50mph, and the Council therefore consider it appropriate to apply different visibility splays in each direction. The Council estimate the achievable Y-distances from the access, at a 2.4m set back ('the X-distance'), to be 130m to the south (towards the 50mph zone) and 105m to the north (within the 40mph zone). They state that the Y-distances required are 120m to the north, and 160m to the south.
7. Sight lines at the access do not meet the Council's desired standards and in this respect might be seen as less than ideal. However, the access adjoins a straight section of carriageway, with a marked bend eastwards in the road shortly to the north. A warning sign of this bend is sited near to the appeal property, and I saw on my site visit that northbound drivers slowed towards the 40mph zone and the bend beyond. Southbound drivers are travelling uphill and emerging from the bend. In these circumstances, I do not find the shortfall in the Y-distances to be of such magnitude as to result in a significant traffic hazard. It is also appropriate to consider whether the appeal proposal creates a safer arrangement than had previously existed or if the notice were to be upheld.
8. I have noted the historic use of the highway verge for the parking of cars in association with the property, against which no preventative steps appear to have been taken by the local highway authority. I consider the new access to amount to an improvement to the safety conditions of those previous arrangements for both the appeal property and general road users.
9. The access makes use of an area of hardstanding in the highway verge to the south of the site, described by the appellant as a former agricultural access. That hardstanding area has been in existence since before 2008 and used for parking in association with the site. A photograph dating from September 2008 shows the property with a wall and hedge above to its front, with a pedestrian gate. Alongside, to the south, lies the hardstanding area with a car parked on it. The Council suggest that this area has more than likely been used for visitor parking, but it nonetheless appears that the hardstanding area in the highway verge has been used as an informal car parking area for the property for a number of years. The appellant points out that the Council (as the local highway authority) have taken no action to prevent parking on the grass

verges, and there is no suggestion before me that such action would be taken in the future (whether in relation to the grass verges or the hardstanding area). The appellant states that this access point will continue to be used to park on the grass verges and the hardstanding even if the garden wall is reinstated. In the absence of any evidence from the Council that this could or would be prevented, I accept this to be the position.

10. I have therefore considered whether the access that has been created is preferable, in terms of its safety and suitability, to those previous arrangements, and have no hesitation in concluding that it is. Although the Council refer to the slow speeds that are required to use the existing access, I do not consider they would be slower than those required to mount the hardstanding or verge. There would be no additional turning movements to and from the A658. The existing arrangements allow for vehicles to enter and leave the property in a forward gear, with no need to reverse onto the carriageway or for dangerous manoeuvres in the highway verge. The visibility that can be achieved when egressing the property by approaching the carriageway 'side on' in a forward gear is undoubtedly better than from the position of parking alongside or facing away from it in the verge. Therefore, although the access that has been created departs from the Council's required standards, I conclude that it is safer and more suitable than the previous informal arrangement which has been allowed to continue for many years and would be likely to resume if the appeal were dismissed. I note also that the Council have previously indicated that a suitable access could be achieved, although the details of the particular previous proposal are not before me.
11. The Council also express concerns that this would set a precedent for the remaining properties at Hillcrest. Although I saw evidence of verge parking, I am satisfied that a precedent would not be set. Nos 4 and 5 have a dropped kerb and accessways, albeit unauthorised, and I have no evidence of any intent to alter these. Nos 1, 2 and 3 benefit from a direct rear access from their back gardens to the formal parking area and so do not suffer from the same impracticalities as the appeal property, whose occupants would, if using the rear parking area, make use of a stepped pedestrian access to an unlit narrow rear path that is bound by a barbed wire fence on one side and a substantial hedge on the other.
12. Therefore I conclude that the appeal proposal, whilst below the Council's required design standards, has not resulted in an unacceptable impact on the existing conditions of highway safety but rather has improved them, and is consistent with paragraph 109 of the Framework. I find no conflict with policy P10's accessibility requirements but, given that the required sightlines are not achieved, there is a degree of conflict with the requirement in policy T2 for parking provision in accordance with current guidelines. For the reasons given, however, I consider that a departure is justified in this particular instance and that, to this extent, a decision otherwise than in accordance with the policy is warranted.

Character and appearance

13. The site lies in a rather rural location, adjoining agricultural land to its southern and western sides, and opposite a spacious housing estate to the east. Stone boundary walls prevail in the area, with occasional hedgerows above. The

public rights of way network passes close to the site, including Ebor Way along the access road to the rear garages.

14. The development that has been carried out has entailed the loss of a section of boundary wall and hedge, which the Council considers is detrimental to the visual amenity of the area. I acknowledge that the former wall and hedge were consistent with the general boundary treatments in the area, and appropriate to the area's character and appearance. However I do not consider that the loss of a relatively small section in order to facilitate the access has resulted in unacceptably detrimental impacts upon the character or appearance of the area. The southern hedgerow to the side of the property provides a backdrop to the gap on the southbound approach, so limiting the visual effects of the opening that has been created. On the northbound approach, the southern hedgerow means the gap is imperceptible until in the fleeting view adjacent to the property itself.
15. Policy GP5 of the Leeds Urban Development Plan (Review 2006) requires development proposals to resolve detailed planning considerations including access and loss of amenity. Policy NP25 requires site boundaries to be designed in a positive manner, using features appropriate to the character of the area. Although not supplied to me, I understand the Leeds Householder Design Guide to require householder developments to respect the character and appearance of the locality including by paying attention to boundary treatments. The minor works that have been carried out to remove the small section of wall and hedgerow are insufficient in scale and effect to amount to a conflict with these policies, and I find no conflict with the development plan with regard to the effect of the development on the character and appearance of the area.

Conclusion

16. For the above reasons I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (f) does not therefore need to be considered.
17. No planning conditions have been suggested for my consideration, and I consider that none are required.

Formal Decision

18. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the formation of a vehicular access onto a classified road on land at 6 Hillcrest, Harrogate Road, Bramhope, Leeds LS16 9HX referred to in the notice.

Laura Renaudon

INSPECTOR