



Appeal Decision

Site visit made on 10 February 2020

by Elizabeth Pleasant BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal Ref: APP/Q9495/C/19/3239179

Land at the Church of the Sacred Heart, Haws Bank, Coniston LA21 8AW

- 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 Roman Catholic Diocese of Lancaster against an enforcement notice issued by Lake District National Park Authority.
 - The enforcement notice was issued on 16 September 2019.
 - The breach of planning control as alleged in the notice is: Without planning permission, operational development consisting of the formation of a track and hardstanding (as shown on the attached Image A).
 - The requirements of the notice are:
 - (1) Permanently remove the track and hardstanding from the Land, and
 - (2) Reinstate the Land to its condition before the track and hardstanding were installed (as shown in Image B).
 - The period for compliance with the requirements is three months.
 - 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. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a), deemed planning application

Main Issues

2. The main issues in this case are the effect on the development on:
 - highway safety; and
 - the character and appearance of the area.

Reasons

Highway Safety

3. The track and hardstanding have been constructed within a small field which lies just to the north of the Church and former presbytery, and to the west of

- Torver Road (A593). They have been formed by the construction of a cellweb system which has been filled with crushed stone.
4. The field has an established access from Torver Road which provides access to the field and a small substation which is located adjacent to its northern boundary and close to the access. However, vehicular and pedestrian access to the Church and presbytery has historically been taken via the lane to their south.
 5. The new track now links the field access to the presbytery, which is currently used for holiday accommodation. It was initially constructed, together with the hardstanding/turning area, for temporary use to facilitate building works at the property. Those works have been completed and the deemed planning application is for its retention.
 6. The existing field access is restricted in terms of its width and visibility. It is situated close to a slight bend in Torver Road, a classified road, and the height of the adjacent stone walls and absence of a pavement in this location mean that visibility when emerging from the access is restricted, particularly to the north. In addition, Torver Road is quite narrow in this location. The single vehicle width access, flanked by stone walls and with no radii, mean that vehicles emerging from the access and wishing to turn left are required to encroach onto the opposite carriageway. For all of these reasons, any intensification in the use of this access would not be in the best interests of highway safety.
 7. The appellant states that the track and turning area are not intended for use on a daily basis in connection with the presbytery and Church. Instead, the access would continue to be used only occasionally to service the septic tank and provide access to the substation and field. Having a hard-surfaced track through the field would undoubtedly make access to the septic tank easier. However, I have not been provided with any substantive evidence that it is essential for this purpose. In addition, whilst it might be that the track is not intended for everyday use, there is no guarantee that this would not be the case. It seems to me that by providing a direct means of vehicular access to the presbytery and the creation of an area of hardstanding where vehicles can park, is an incentive to use the access for that purpose. Indeed, it is clear from third party representations that since the track has been in place, it has been used for purposes other than those associated with the substation and building works.
 8. I recognise that the relocation of the field gate has enabled vehicles to pull directly off the highway and this have provided some safety improvement to the previous highway situation. I also understand that there is no evidence of any accidents in this location. However, from the evidence available to me it is clear that the construction of the track and hardstanding have contributed to an intensification in the use of a substandard access. Moreover, I have no doubt that any intensification in the use of this access would have an unacceptable impact on highway safety.
 9. I conclude that the development has a harmful effect on highway safety. It is therefore contrary to the National Planning Policy Framework which advises that development which has unacceptable impacts on highway safety should be refused.

Character and appearance

10. The track and hardstanding have been finished in crushed stone which, in terms of its colour and form is generally sympathetic to the existing landscape character. In addition, the track has been designed to follow the contours of the land and is close to the field boundary. This alignment has helped to minimise its visual impact.
11. However, the hardstanding/turning area is extensive in area and its development has involved some engineering works to create a level surface. Whilst this part of the development is not readily visible from Torver Road, it is clearly visible from the permissive footpath which follows the line of a disused railway to the west, and which overlooks the site. Invading grass/vegetation is beginning to soften the appearance of this area. However, its scale and form remain visually intrusive when viewed from the footpath. Overall the development appears as an urbanising encroachment into an otherwise natural landscape.
12. I conclude that the development has a harmful effect on the character and appearance of the area. I therefore find conflict with the development plan and in particular with Policies CS01 and CS02 of the Lake District National Park Core Strategy, 2010 which seek to ensure, amongst other things, that new development reinforces the distinctiveness of the Park and conserves and enhances its natural beauty.

Conclusion

13. For the reasons given above and taking into account all other matters raised, the appeal on ground (a) must fail.

Appeal on ground (f)

14. The issue is whether the requirements are excessive to achieve the purpose(s) of the notice.
15. Section 173 of the Town and Country Planning Act 1990 (as amended) indicates that there are two purposes which the requirements of an enforcement notice can seek to address. The first is to remedy the breach of planning control that has occurred and the second to remedy any injury to amenity which has been caused by the breach. In this case the purpose of the notice is to remedy the breach of planning control.
16. The appellant suggests that it is not necessary to remove the track. The reasons given are that the removal of the hardstanding area alone would prevent cars from parking in this location and therefore remove the alleged harm cause from an intensification in the use of the access.
17. However, I have found the track and the hardstanding to be unacceptable and given that the purpose of the notice is to remedy the breach of planning control, it is not excessive to require the removal of all of its elements, including the track. There are no lesser steps available to me that would remedy the breach of planning control.
18. The appeal on ground (f) must fail.

Overall Conclusion

19. For the reasons given above I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177 (5) of the 1990 Act, as amended.

Elizabeth Pleasant

INSPECTOR