



Appeal Decision

Site visit made on 17 December 2019

by L McKay MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 26th February 2020

Appeal Ref: APP/F9498/W/19/3237619

Site located along the highway known as Batallers Lane to the north of Lower Roadwater village, Grid ref 303652, 139546

- 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 Gerard Cole against the decision of Exmoor National Park Authority.
 - The application Ref 6/26/18/110, dated 9 November 2018, was refused by notice dated 5 June 2019.
 - The development proposed is described as, 'Retrospective planning application for the removal of hedgerow. A post and rail timber fence has been erected across the gap, however there is a further proposal to create an entrance into the field at this location in order to enable Mr Cole access with his combine harvester'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the heading above is taken from the application form, however it includes elements that are not development and does not fully describe all aspects of the proposal. It is apparent from the submissions that the proposal includes formation of a vehicular access onto Batallers Lane; regrading of the land to create a slope down to the road; and reprofiling of 20 metres of bank to the south of the access to provide a visibility splay. Although a post and rail fence is mentioned in some submissions, the proposed elevation drawing (PL001) shows gates across the access and the appellant's submissions refer to a 'gateway'. The appellant confirms that the elevation was not withdrawn from consideration and the Authority confirms that it considered the proposal on the basis of that drawing. I have therefore considered the appeal on this basis.
3. During my site visit I observed that an access had been formed and gates were in place, but some parts of the proposals had not yet been carried out. I cannot however be certain that the access has been constructed in accordance with the plans. Accordingly, I have considered the proposal as presented upon the plans that are the subject of the appeal and not in regard to what I observed at my site visit.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area and the Exmoor National Park; and on highway safety.

Reasons

Character and appearance

5. Batallers Lane is a single-track road sloping down into Lower Roadwater, with high hedge banks on both sides for most of its length. The largely unbroken line of hedge and banks gives the lane a sense of enclosure and a green and pleasant character, in contrast to the open and expansive landscape of the wider area and this part of the National Park.
6. Due to the change in levels from the field to the lane, significant regrading has already taken place to form the existing opening. It appears to be narrower than the 8m wide access proposed however, therefore more regrading is likely to be required to implement the appeal proposal. In addition, the existing steep bank would have to be significantly reprofiled to provide adequate visibility to the south.
7. While field gateways are not unusual in the countryside, there are few in the narrow lanes surrounding the appeal site. Where they are present, I saw that they tended to be sited where the level of the field was similar to that of the carriageway, resulting in relatively small and discreet accesses with minimal change in levels. The appeal proposal would be different in that the associated engineering works would extend well beyond the gateway itself. The proposed access and associated engineering works would therefore result in a significant length of the lane being widened and the creation of a large opening in the otherwise unbroken hedge line on this side. Consequently, the proposals would substantially and harmfully alter the enclosed and narrow character of the lane.
8. The proposed replacement hedgerow would be set back into the site above the regraded bank. As such, it would not provide any significant screening of the new opening, and would only partially restore the sense of enclosure along the lane. Grassing the access and planting or seeding the proposed banks would create a softer appearance than a hard surface but would not significantly diminish the visual impact of the gap or the extent of engineering works. As such, the proposed landscaping would not mitigate the harm identified above.
9. Paragraph 172 of the National Planning Policy Framework (the Framework) sets out that great weight should be given to conserving and enhancing landscape beauty in National Parks, which have the highest status of protection. The proposed development would significantly harm the character and appearance of the area and this part of the Exmoor National Park. It would conflict with Policies GP1, CE-S1, CE-D1 and CE-S6 of the Exmoor National Park Local Plan 2011-2031 (LP) which, amongst other things, require development to conserve or enhance the National Park and be of high quality design that reflects and reinforces landscape character. It would also conflict with the requirement in Framework paragraph 170 to protect and enhance valued landscapes.
10. As the access would be permanent, the impacts would endure irrespective of how many times it was used each year. Therefore, the appellant's suggested condition limiting the use of the access to certain times of year would not address the harm identified to the character and appearance of the area and the National Park.

Highway safety

11. Sufficient visibility could be achieved in both directions for vehicles to leave the access safely. However, for the reasons set out above, the bank reprofiling necessary to achieve this would harm the character and appearance of the area.

12. The evidence before me is that Batallers Lane is relatively well-used and is subject to the national speed limit. Consequently, even if the proposed access were only used as infrequently as the appellant suggests, any vehicle waiting on the highway to enter the site would create a hazard to highway safety. Therefore, any gates across the access would need to be set back sufficiently to allow agricultural vehicles to pull clear of the highway. Although the submitted elevation drawing shows gates, the site plans do not show how far back into the site they would be located. However, an appropriate position could be agreed and secured through a planning condition.
13. There is potential for surface water run-off from the field onto the highway via the access, which would adversely affect highway safety. While the appellant contends that existing drainage features in the wider field and at the top of the access slope are sufficient, very limited details of these have been provided. As there is no assessment before me of their location, design or effectiveness, I cannot be certain that they are sufficient to mitigate the impact of the proposed development. Further assessment would therefore be necessary to inform a drainage scheme. Given the extent of the appellant's land ownership there is a realistic prospect that any necessary works could be implemented, therefore this could reasonably be secured by a planning condition.
14. Even if the proposed access were only used infrequently, exiting vehicles would be likely to bring mud and debris out onto the sloping lane, creating a hazard to highway safety. A consolidated surface for the first part of the access would in all likelihood resolve this issue however, and could be designed with suitable materials to integrate with the drainage scheme.
15. Were the proposal otherwise acceptable, the highway safety matters set out above could be resolved through appropriately worded planning conditions. Accordingly, the proposal would not result in unacceptable harm to highway safety and I find no conflict with LP Policies AC-S2 and AC-D2 which, amongst other things, resist development that would prejudice road safety interests. Nor would there be conflict with Framework paragraphs 108 and 109.

Other Matters

16. The existing field access and adjacent road junction are sufficient for most vehicles to enter and exit the site. The appellant sets out however, that the large agricultural vehicles needed to harvest crops cannot reach this access due to physical width restrictions at certain points on Batallers Lane and two other routes to the site. I have no reason to doubt the measurements stated for the roads or the dimensions for combine harvesters. Nonetheless, access was until recently achievable via other land, now in third party ownership. The evidence before me therefore, is that the current problem arises from the cessation of the appellant's previous informal agreement with the former neighbouring landowner.
17. The field to which the proposed access relates has two relatively long boundaries with the adjacent lanes, significant lengths of which are beyond the width restrictions. Although reference is made to discussions between the parties, I have not been presented with any specific alternative access locations considered or reasons why they were discounted. While large vehicles might have to travel further to reach such locations, the appellant's evidence is that this would only need to occur a few times each year. Therefore, it would not be likely to result in significant inconvenience for the appellant or for other road users. There is therefore no substantive evidence before me to demonstrate that access cannot be achieved in a less harmful form than the scheme before me.

18. The field is stated to be high grade agricultural land and therefore suited to arable farming. The appellant contends that this land is critical to proper functioning of their farming business and that not being able to farm it would affect their financial sustainability. However, as set out above, it has not been demonstrated that there are no alternative access solutions available to allow large arable machinery into the field. These matters therefore carry little weight in favour of the proposal.
19. Interested parties attest to the work by the appellant to infill gaps in the hedgerow and the effect of the drainage works in reducing run-off, mud and debris on the lane. Other than the unspecified drainage works at the top of the access slope however, these do not form part of the appeal proposal. In any event, they have already been completed and as such are not dependent on the outcome of this appeal. Consequently, they do not have any bearing on my consideration of the proposal.
20. The proposed access would create a new opportunity for vehicles to pass each other on the lane, which currently has few passing places. This would be beneficial to the operation of the highway. The replacement of the relatively poor existing hedgerow with native species planting would be likely to result in a minor benefit to biodiversity. These factors carry modest weight in favour of the proposal.
21. The appellant refers to a recent development at Gracepits Farm. While this is close to the appeal site, it is in a different local planning authority and outside of the National Park. The circumstances are therefore not comparable with the scheme before me, which I have considered on its own merits.
22. The Authority cites LP Policy SE-S4 in its first reason for refusal, however this specifically relates to new or replacement buildings, tracks, structures and extensions required for agriculture or forestry purposes. No reference is made to new accesses, therefore this Policy has not been determinative in my consideration of this appeal.

Conclusion

23. Any planning permission runs with the land and I give great weight to conserving and enhancing the landscape and scenic beauty of the National Park. Consequently, while I appreciate the personal circumstances of the appellant, neither they or the other benefits of the scheme are sufficiently compelling to outweigh the significant harm from the proposal to the character and appearance of the area and this part of the National Park and the resulting conflict with the development plan and Framework.
24. Therefore overall, I conclude that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan. Therefore, for the reasons given above, the appeal is dismissed.

L McKay

INSPECTOR