
Appeal Decision

Site visit made on 4 June 2020

by R Morgan MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2020

Appeal Ref: APP/A2335/W/20/3245636

Wellington View Farm, Bay Horse Road, Ellel, Lancaster

- 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 Russel Sanderson of DST Group Ltd against the decision of Lancaster City Council.
 - The application Ref 19/01466/FUL, dated 8 November 2019, was refused by notice dated 23 January 2020.
 - The development proposed is creation of a new agricultural access with new replacement hedge and closure of existing field gate access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effect of the proposal on i) the character and appearance of the area, and ii) biodiversity.

Reasons

Character and appearance

3. Bay Horse Road is a rural lane which, in the vicinity of the appeal site, is lined on either side by hedgerows. The proposed access improvements would involve the removal of a section of around 45 metres of hedgerow on either side of the gates. Replacement sections of hedge would be planted behind the proposed visibility splays and would link into the existing hedge.
4. The hedgerows which line both sides of Bay Horse Road are generally thick and well established. In the vicinity of the appeal site, the hedgerows are almost continuous and run parallel to both sides of the road behind narrow verges. The hedgerows are a defining feature of the lane and contribute positively to the character of the area.
5. According to the Council, the hedge appears on maps dating back to the 1940s and 1960s, and Bay Horse Road appears on maps which are considerably older, suggesting that a hedgerow boundary might have been in place in this location since 1845 or earlier. The hedgerow and associated boundary line are therefore likely to be of historic interest.
6. The length of the hedgerow and the historic significance of the boundary mean that it would be considered an important hedgerow in terms of the Hedgerow Regulations 1997.

7. The proposed removal of a significant section of the hedgerow and its replacement at a new alignment, set back from the roadside behind visibility splays, would alter, and cause harm to, the long established character of this section of the road. Although the length of hedgerow affected may be limited in the context of the wider countryside, the proposal would nonetheless have a significant impact on this stretch of Bay Horse Road.
8. I note the appellant's comments that the hedgerow may have been replaced and replanted over the years. Whilst I agree this is possible, there does not appear to be any obvious reason why the hedge would have been replaced, as the area is agricultural with little built development. Furthermore, even if the hedgerow has been replaced at some stage, there is no disagreement that it is well established.
9. The appellant's arboricultural method statement sets out details for the planting and maintenance of the proposed replacement sections of hedgerow, which appear to be reasonable. However, even with the proposed commitment to ongoing care and maintenance, it would still take a number of years for the new hedge to become fully established as a replacement for the existing, thick and substantial hedge.
10. I conclude that the proposal would cause harm to the character and appearance of the area. The proposed replacement planting would not be sufficient to overcome this harm.
11. The proposed development would conflict with Policy DM29 of the Local Plan Development Management Development Plan Document (DMDPD), which supports the protection of hedgerows which positively contribute to the visual amenity and/or environmental value of the location. There is further conflict with Local Plan Policy DM35, which requires that development should make a positive contribution to the surrounding landscape. Conflict also exists with section 12 of the National Planning policy Framework (the Framework), regarding the need for developments to be sympathetic to local character and history; and section 15, which requires decisions to contribute to and enhance the natural and local environment.

Biodiversity

12. It is accepted by both parties that the hedgerow, which is predominately formed of hawthorn interspersed with holly and ivy, is likely to provide a habitat for a range of species. However, no detailed information has been provided regarding its ecological value, which is likely to be the result of a variety of factors including the size and age of the hedgerow, as well as the mix of plant species.
13. I note the appellant's comments regarding the proposed timing of the hedge removal to avoid the bird nesting season, and the commitment to a visual survey prior to its removal to check for birds and mammals. However, such a survey would not establish the full ecological value of the hedge, and without such understanding, the adequacy of the proposed mitigation measures is uncertain.
14. If properly cared for, I agree that the proposed planting should become quickly established and grow quickly. However, it may take a much longer period of time for the replacement hedgerow to develop biodiversity value which is

equivalent or greater than that of the existing hedge. Furthermore, no additional areas of planting are proposed, and there is no evidence to back up the appellant's suggestion that providing an increased mix of planting would necessarily result in an improvement in biodiversity value.

15. In the absence of information about the current ecological value of the hedgerow, it is unclear whether the proposed replanting would adequately mitigate the harm to biodiversity that would arise from removal of the hedge, and there is nothing to convince me that the proposal would provide any net gains in biodiversity value.
16. I conclude that the proposal would cause harm to biodiversity. The proposal conflicts with DMDPD Policy DM27, which requires new developments to minimise the impact on biodiversity and provide net gains where possible, and section 15 of the Framework, which has similar aims. There is further conflict with DMDPD Policy DM29, which supports the protection of hedgerows which contribute positively to environmental value.

Other Matters

17. The existing field access suffers from poor visibility onto Bay Horse Road, and there is no disagreement that, by creating visibility splays and moving the access further away from the crest of the hill, the proposal would provide highway safety benefits.
18. The building and associated access have been used infrequently over the last few years, and although there is no suggestion that the previous lack of use was due to the inadequacy of the access, the lack of use in the recent past does not necessarily preclude a higher level of use in the future. I acknowledge that a different tenant might make greater use of the agricultural storage building and associated parcel of land. However, even if the building and land were to be used more intensively, little information has been provided about the likely level and frequency of future use, and the associated need for the proposed improved access.
19. I acknowledge the appellant's comments about the current difficulties in accessing and exiting the site, and the need for larger vehicles to move to the opposite side of the highway to turn into the narrow entrance. However, such manoeuvres by large agricultural vehicles are likely to be a common occurrence in this rural area.
20. The appellant has suggested that smaller vehicles may also need to visit the site, as the farmer may use a car, and delivery vehicles may be needed for animal supplies. Whilst such vehicles may benefit from the proposed access improvements, there is no further information about the likely frequency of such visits, which, given the current use of the building, may be limited. Consideration of any alternative use for the building, and any associated access requirements, is beyond the scope of this appeal.
21. The lack of information about the extent of the future use of the site, and the type and frequency of vehicles which may need to regularly use the access, means that the highway safety benefits of the proposal are unclear and may well be limited. From the evidence before me, I am not persuaded that the highway safety benefits would be sufficient to outweigh the harm to the

character and appearance of the area and to biodiversity which I have identified.

22. I note the Council's reference to an alternative access for the building, but this is some distance away and unsuitable for smaller vehicles. Furthermore, there is nothing to suggest that this alternative entrance provides any advantages in terms of visibility or highway safety. I have therefore given this alternative little weight in my consideration of this appeal.
23. The Council has informed me that since the submission of this appeal, planning permission has been granted for an alternative scheme which would involve translocation, rather than removal and replanting of the hedge¹. It is therefore apparent that an alternative solution is available which would enable a new access to be created whilst retaining the hedge, so minimising harm to both the character and appearance of the area and to biodiversity.

Conclusion

24. For the reasons given, I conclude that the appeal should be dismissed.

R Morgan

INSPECTOR

¹ Ref 20/00472/FUL