

Appeal Decision

Site Visit made on 10 March 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 March 2021

Appeal Ref: APP/B3438/W/20/3263699

The Dairy, Dalebank Road, Freehay, Cheadle ST10 1RE

- 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 Lee Doyle against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2020/0362, dated 17 June 2020, was refused by notice dated 28 October 2020.
 - The development proposed is an access through an established gate opening on Dalebank Road open to the property boundaries and create a track drive in keeping with the area to the property.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The address set out on the planning application form refers to 'Hulme Farm' and 'Hollington Road'. However, the appeal relates to 'The Dairy' and not Hulme Farm. Moreover, the submitted plans show the access joining Dalebank Road. Thus, I have amended the address to reflect these matters.
3. The appeal site is to the south of The Dairy, a barn converted to a dwelling through a Class Q scheme¹. As part of this scheme, access was to be gained using the existing access to Hulme Farm which is next to The Dairy and is now a dwellinghouse. At some point before mid-June 2020 the previous landowner formed a separate access and track to serve The Dairy. Images provided show that this access did not exist in its current form until not long before this time. But if I am wrong it is open to the appellant to submit a Certificate of Lawful Development to the Council. The Council's Enforcement Team investigated the matter and closed the case once the track, which reflects the siting and layout of the proposal, was re-covered with soil and seed. I saw that this soil and seed was no longer in place which leaves the track clear to see. The centre of the track is grassed while its alignment and the position of the wooden gate on site accord with the submitted plan. I have considered the appeal on this basis.
4. The description of development found on the planning application form and the appellant's appeal form contain matters which are not acts of development and relate to the merits of the case. I have therefore used the description of development from the decision notice in the banner above and considered the appeal on this basis as it generally reflects the scheme that is before me though the development has already been carried out.
5. The third reason for refusing planning permission concerns the loss of a section

¹ Council Ref: DET/2014/0054

of hedgerow next to the road. The appellant says that trees, plants and wildflower seeds have been planted along the length of the track next to existing fences and borders. Given this and the requirements of Policies NE1 and NE2 of the Staffordshire Moorlands Local Plan (Local Plan), I wrote to the main parties to ask whether a landscape scheme could potentially overcome the Council's concerns. In reply, the Council agreed that a suitably worded condition could mitigate the adverse impact of losing a section of hedgerow. This has led the Council to withdraw this reason for refusal.

Main Issues

6. The main issues in this case are: (a) whether sufficient information has been provided regarding the proposal's effect on existing trees; and (b) the effect of the proposal on the open countryside, having regard to its landscape character.

Reasons

Trees

7. Trees are important to the quality of life and the environment. They play a role in mitigating the effects of climate change and they play a role in creating a high-quality environment. In this case, they reinforce the site's rural context. Local Plan Policy NE 2 explains that existing healthy trees should be retained and integrated within a proposed development, unless the need for, and benefit of, the development clearly outweigh their loss.
8. The Elm and the Ash trees next to the southern leg of the access are mature. Given the extent of their crown's, it is highly likely that their roots extend beneath the access. The appellant has not provided any substantive evidence that establishes whether or not the proposal has affected or is affecting these trees. However, due to the alignment of the access, and its use by vehicles, including the appellant's agricultural machinery, compaction to the roots of both trees is a likely. This can reduce the space within the soil and affect soil structure, and thus root development and the growth of the trees.
9. While Local Plan Policy NE 1 talks about appropriately mitigating unavoidable adverse impacts, there is no evidence to suggest that the access could not be formed without affecting the trees. This leads me to conclude, in respect of this issue, that there is not sufficient information before me to demonstrate that the proposal is not and will not have an adverse effect on existing trees. Hence, the proposal conflicts with Local Plan Policies NE 1 and NE 2. Jointly, these seek to protect existing trees and retain and integrate them as part of a proposed development and if adverse impacts are demonstrated to be unavoidable, these impacts are appropriately mitigated.

Open countryside

10. The appeal site is located within the open countryside. Trees and hedgerows are on either side of Dalebank Road. They contribute to the areas rural character. The Dairy sits within 5.5 acres of land.
11. Local Plan Policy SS 10 sets out that development in other rural areas such as the countryside will only be provided where it has an essential need to be located in the countryside, supports the rural diversification and sustainability of the rural areas...and enhances the countryside. The policy goes on to list how this will be achieved. The proposal is not listed specifically within this policy, but the policy also looks to enhance and conserve the quality of the countryside

by: giving priority to the need to protect the quality and character of the area and requiring all development proposals to respect and respond sensitively to the distinctive qualities of the surrounding landscape.

12. Hulme Farm was occupied by a semi-retired farmer who did not use heavy machinery. The gate between the farm and The Dairy remains, but the appellant says that there are issues with heavy vehicles using this access as it involves crossing on top of Hulme Farm's soakaway and sewerage pipes leading to the septic tank. There may not have been an initial intention to use this access as frequently or by particular types of vehicles, and some of the issues raised the appellant may well be true, but the evidence before me is anecdotal and there is no evidence to suggest that the potential issues could not be remedied another way, such as by strengthening the Hulme Farm access.
13. The access subject of this appeal is for domestic use only, but it would also be used in connection with the appellant's domestic small holding to access their fields and to help move animals around. The small holding is not run for commercial purposes as the appellant and his partner both have full time jobs, but they enjoy looking after their sheep, cattle, goats and chickens.
14. The access may well offer good visibility in either direction onto the road, and I agree with the Highway Authority's stance on the scheme in highway terms, but the visibility from the Hulme Farm access onto Dalebank Road is adequate given the road's conditions and its use. I have not been provided with any details of the near misses referred to that would suggest I take a different view. I would also expect a modest number of vehicle movements to use the access and for these to be at a low speed. Occupiers of Hulme Farm and any visitors would more than likely be aware of the potential for vehicles to use the access, though I do recognise that there would be some localised disturbance from comings and goings, especially during quieter evening hours. However, the effects would be time limited.
15. It seems to me that the access is useful for the operation of the small holding and it would mean that The Dairy and Hulme Farm can be accessed independently. However, there is no substantive evidence to support the appellant's claim about the viability of The Dairy being at grave risk without the access. This, along with the appellant's other points, leads me to consider that an essential need has not been proven whereby the appeal scheme supports the rural diversification and sustainability of the rural area.
16. The track itself is discreetly aligned next to an established hedgerow which means that it can be seen from certain angles on the road, though it is not highly visible. The track is narrow and lined by grass either side and down the middle. Its appearance is therefore typical of an access in a rural area. As I set out earlier, the provision of landscaping would assist with assimilating the access into the rural landscape so that it respects its character. The initial 5 metres of the track would be, based on the Highway Authority's comments, bound and surfaced with a porous material. This would alter the landscaped edge to the road, but there are existing accesses in the area leading off the road that are surfaced. Hence, I do not share the Council's concerns about the scheme's effect on the landscape. In this regard, the proposal would accord with Local Plan Policies DC1 and DC3.
17. Nevertheless, my findings in respect of the appeal scheme respecting and responding to the character of the area and protecting the distinctive qualities

of the surrounding landscape do not outweigh my conclusion that an essential need has not been proven for the development to be located in the open countryside. Hence, the proposal conflicts with Local Plan Policy SS 10.

Other Matters

18. I note the appellant's points about the Council's handling of the planning application, the enforcement investigation and whether a site visit took place. Moreover, I recognise the support that the scheme has attracted and the anxiety that the consideration of the scheme may have caused to the appellant. However, I have made a judgement on the appeal scheme's planning merits alone.

Conclusion

19. I have found that a suitable planning condition would overcome the Council's concerns about the hedge, and that no harm would be caused to the character of the area and the qualities of the surrounding landscape. I also note the appellant's acceptance of the other suggested planning conditions. However, these, nor my findings about the hedge and landscape character would overcome the harm that I have identified in relation to an essential need and existing trees. As such, the appeal scheme conflicts with the development plan as a whole and there are no material considerations that indicate that I should take a different decision other than in accordance with this.
20. For the reasons set out above, I conclude that the appeal is dismissed.

Mr Andrew McGlone

INSPECTOR