



Appeal Decision

Site Visit made on 1 September 2021

by J Hunter BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th October 2021

Appeal Ref: APP/W9500/W/21/3272597

Newlands Farm, Newlands Road, Cloughton, Scarborough YO13 0AR

- 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 & Mrs Morley against the decision of North York Moors National Park Authority.
 - The application Ref NYM/2020/0583/FL, dated 12 August 2020, was refused by notice dated 8 October 2020.
 - The development proposed is formation of a vehicular farm access and associated track.
-

Decision

1. The appeal is dismissed.

Main Issues

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

Reasons

Character and appearance

3. The appeal site is a working farm with associated agricultural shed, holiday lets and a farm shop forming a relatively tightly knit collection of buildings. The site and surrounding area lie within the North York Moors National Park and as such is predominantly characterised by open countryside.
4. The existing entrance to the site is positioned in a relatively flat location, it is a wide entrance flanked by dry stone walling and a relatively wide grassed verge on either side. I saw during my site visit that whilst standing in a central location at the existing point of entry there is very good visibility both north and south.
5. The proposal is to create a new access approximately 100m north of the existing entrance. The appellants submit that the new entrance would facilitate an additional track which would serve the farm, whilst the original access would serve the farm shop and holiday cottages.
6. Policy BL6 of the North York Moors National Park Authority Local Plan July 2020 (LP) seeks to protect the intrinsic openness of the National Park by limiting the circumstances in which new tracks can be formed. The Council consider that there is no compelling evidence to justify the need for the new track and that it has not been demonstrated that there are no suitable existing roads or tracks.

7. The existing entrance and driveway lead up to a parking area which is immediately adjacent to the holiday cottages and farm house. A relatively narrow pedestrian route to the rear of the holiday cottages allows access to the farm shop.
8. The existing vehicular access to the agricultural sheds and working farmyard passes directly in front of the holiday cottages. The appellants submit that the shared nature of the access and driveway coupled with the proximity of the farm access to the windows of the holiday cottages raises both safety and amenity issues for users of the site. I have not been provided with any accident records, customer complaints or other evidence in relation to the existing arrangement and whilst I appreciate that the proximity of passing farm vehicles to the holiday accommodation could lead to some disturbance, I am mindful that upon booking, users will be aware of the location of the cottages and indeed that they are part of a working farm.
9. I saw during my site visit that there is a secondary track originating from a spur close to the site entrance. This track passes in front of the holiday cottages at a distance of around 15 metres and opens into an area of hardstanding immediately south of the farmyard. It is not clear from the evidence before me what this secondary track is used for or indeed why it could not be upgraded in order to provide a separate access to the working farm without the need for a secondary access point onto the main road.
10. The proposed access and track would offer a direct route from the main road to the working farm thus negating the need for farm traffic to pass in front of the holiday cottages. The access would be relatively short but due to the topography of the land, and in particular the natural ravine that lies between the farmyard and the road, its construction would require a significant amount of engineering works. In addition, there would be a need to remove part of the dry-stone boundary wall and some vegetation. Although the proposed development would be relatively well screened due to existing tree cover and topography, I consider that it would introduce urbanising development that would be detrimental to the open character of the location.
11. In the absence of any evidence in relation to the suitability of the existing secondary track or indeed any other options explored I am not convinced that the need for the proposed track and associated access has been justified. Consequently, the proposal would be contrary to the requirements of Policy BL6 of the LP which seeks to protect the openness of the national park by ensuring that proposals for new tracks are accompanied by evidence in relation to potential alternatives and need.

Highway safety

12. Craven's Hill is a rural road with a 60mph speed limit. There are no pedestrian footways or lighting. The topography of the area is such that the carriageway along the western boundary of the appeal site lane is of a gradient falling from northwest to southeast. There is a natural ravine within the site boundary which means that part of the land that would be required to create the required visibility splays is at a much lower level than the existing highway verge. There is relatively heavy tree and foliage cover on both sides of the proposed access point and a length of dry-stone walling.

13. The combination of these features means that the inter-visibility between a vehicle using the proposed access to the site and users of the adjacent highway would be significantly constrained without the provision of sufficient visibility splays. To address this, the proposal includes works to remove a section of the adjacent walling, hedgerow, trees and embankment along the proposed south easterly splay. The Council states that this land is outside of the appellants' control and consequently they question the appellants' ability to deliver the proposed visibility splays.
14. There is some dispute between the parties with regard to the status of the main road serving the site and the most appropriate visibility splays for the proposed junction.
15. Notwithstanding the above, the main parties agree that the road is in a rural location and therefore subject to a 60mph speed limit. The appellants have submitted a speed survey which provides a total of 106 speed readings over a 2-hour time slot during February 2020. The data indicates that at 32.2mph and 29.6mph vehicle speeds in both directions are significantly lower than the 60mph speed limit.
16. Notwithstanding the above, I consider the scope of the speed survey having only covered one two hour, mid-morning period to be fairly limited and consequently I am not convinced that the data provides sufficient justification for shorter visibility splays suggested by the appellants. However, even if I were to accept that the appellants' suggested visibility splays would be appropriate, the evidence before me indicates that the removal of the wall, vegetation, and trees, which are necessary to provide a visibility splay, would significantly impose on third party land requiring a new boundary treatment and works to the verge. In the absence of a legal agreement to secure and maintain these works, it is not certain that either of the suggested visibility splays can be achieved and therefore the driver of a vehicle would have severely restricted views along the road when exiting from the site onto Craven's Hill.
17. I have considered whether the use of planning conditions could achieve the required visibility splays. However, the Planning Practice Guidance is clear that conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body often fail the tests of reasonableness and enforceability. I have also considered the use of a 'Grampian' style condition, prohibiting development until adequate visibility splays can be provided. In this case such a condition would not secure the ongoing provision and maintenance of the splays, rendering the condition unreasonable and unenforceable.
18. Consequently, the development would pose an unacceptable risk to users of the highway along Craven's Hill. Thus, it conflicts with Policy CO2 of the LP which seeks to ensure that new development does not have a significant adverse effect on road safety.

Conclusion

19. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J Hunter

INSPECTOR