



Appeal Decision

Site visit made on 10 October 2022

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 25th October 2022

Appeal Ref: APP/R1038/W/22/3295139

Land to north of Main Road, between 22 & 24 Main Road, Troway S21 5RR

- 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 A Rowland against the decision of North East Derbyshire District Council.
 - The application Ref 22/00003/FL, dated 23 December 2021, was refused by notice dated 2 March 2022.
 - The development proposed is a new site access to field off Main Road and laying of access track with road planings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Prior approval for an agricultural building within the field that the proposed access would serve has been deemed to have been granted because the Council did not respond within 28 days to an application for prior approval. However, if the agricultural building was built it would only be lawful if it is in fact permitted development. The appellant has made two unsuccessful applications for a certificate of lawful development for the building in question. As a result, the current position is that the proposed agricultural building would be unlawful and I have dealt with the appeal on this basis.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal is inappropriate development for the purposes of development plan policy and the National Planning Policy Framework ('the Framework');
 - the effect of the proposal on the character and appearance of the landscape and Moss Valley Conservation Area; and,
 - if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

4. The appeal site, marked in red on the submitted plans, consists of the proposed access and track and is located in a field of pasture next to Main Road.

5. Paragraph 150 of the Framework advises that the carrying out of engineering operations does not constitute inappropriate development in the Green Belt provided that it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. I consider that the most relevant purpose in this case relates to safeguarding the countryside from encroachment. Policy SS10 of the North East Derbyshire Local Plan ('Local Plan'), adopted in November 2021, is consistent in this regard with the Framework.
6. The creation of an access and laying out of a track is an engineering operation. Currently, access to the field is via a field gate located in the boundary wall. The proposed development would result in this access being sealed and the creation of a new access with gates set back from the highway with a track from it leading into the field. Tarmacadam would be laid at the access point for a distance of 6m from the back edge of the highway. For the remaining 24m of its 30m length and 4.6m width the track would be surfaced in road planings, which is a loose form of hardstanding. As a result, the access track would appear as an engineered surface.
7. Clearly, in spatial terms, the quantum of development represented by the hardstanding track and the adjustment of the front boundary wall to accommodate a set back field gate would be small. However, visually the access with the introduction of an engineered track would be far more prominent than the existing access that simply enters the field. Moreover, the current position is that the agricultural building with deemed prior approval that the track would serve would be unlawful. As a result, the track would lead nowhere.
8. Despite the track being located against the side boundary garden wall of an adjacent dwelling it would appear as an engineering operation that urbanises the field and encroaches into the countryside for no obvious purpose. I do not accept that the track is necessary for management of the farm land and to prevent agricultural machinery damaging the field. This is because if this was the case every field would have an engineered track which is simply not the case.
9. Taking all these matters into account, I therefore conclude that the proposal would fail to preserve openness and conflicts with a purpose of including land within the Green Belt, contrary to paragraph 150 of the Framework and policy SS10 of the Local Plan. As a result, it would be inappropriate development.

Character and appearance

Landscape

10. The appeal site is located in the South Yorkshire, Nottinghamshire and Derbyshire Coalfield character area in the Derbyshire Landscape Character Assessment. It is also part of a primary Area of Multiple Environmental Sensitivity (AMES). In such an area new development should be informed by, and be sympathetic to, the distinctive landscape area and AMES and contribute where appropriate, amongst other matters, to the conservation of the local landscape.
11. Whilst the new access would comply with these requirements, the proposed engineered track in not leading to any building and simply extending into the field alongside a side boundary garden wall before terminating would urbanise the field and fail to conserve the local landscape. As a result, the proposal would be contrary to policy SDC3 of the Local Plan which seeks to prevent such harm.

Conservation Area

12. The appeal site is located within the Moss Valley Conservation Area. In the exercising of planning functions the statutory test in relation to conservation areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Policy SDC5 of the Local Plan is consistent with the statutory test and also requires that the design of any development respects the landscape and local design features.
13. The Conservation Area covers a rural area of hills and valleys that contains well designed traditional buildings constructed from local stone in often relatively isolated locations. The significance of the Conservation Area is historical and the open countryside forms an important part of its character.
14. For the reasons given in paragraph 11 the proposed engineered track in not leading to any building and simply extending into the field before terminating would urbanise the field and fail to conserve the local landscape. As a result, it would be detrimental to the character and appearance of the Conservation Area as a whole.
15. The harm that would be caused by the proposal to the significance of the Conservation Area as a whole would be less than substantial. In such circumstances, paragraph 202 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal.
16. In accordance with the statutory duties described, I attach considerable importance and weight to the harm that would be caused to the Conservation Area. On the other side of the balance, in comparison to the existing access, in highway safety terms, the proposal would improve visibility by a limited extent in one direction when a vehicle exits the field and is likely to reduce mud on the road. It would also provide employment during its construction. I attach some weight to these benefits.
17. Taking all these matters into account, my overall conclusion is that the public benefits fall short of outweighing the harm that would be caused to the Conservation Area. The proposal would therefore be contrary to policy SDC5 of the Local Plan and the Framework as well as failing the statutory test.

Other considerations

18. I have found that the proposal would be inappropriate development in the Green Belt and thus should not be approved except in very special circumstances. It is therefore necessary to consider the other considerations put forward by the appellant in favour of the appeal, to determine whether there are any material considerations which would amount to very special circumstances that would outweigh the harm by reason of inappropriateness and the harm to the landscape and Conservation Area that I have identified.

Agriculture

19. Development in the countryside is supported by policy SS9 of the Local Plan if it is necessary for the efficient or viable operation of agriculture. It is stated that the proposed access and track is required in relation to the management of farmland and future use of an agricultural building with deemed prior approval on the field once it is erected. However, as I have noted as a preliminary matter, the current position is that the agricultural building would be unlawful and for the reasons given in paragraph 8 an engineered track is not necessary simply to gain access to and from a field. I therefore attach minimal weight to the agricultural need for the proposed development in favour of the proposal.

Highway safety

20. The proposed access would improve visibility by a limited extent for a vehicle exiting the field in relation to oncoming vehicles from the left on the far side of the road as they approach around a corner. The hard surface of the track is likely to also reduce the amount of mud carried onto the road. I attach some weight to these considerations in favour of the appeal.

Conclusion

21. The proposal represents inappropriate development, which by definition, would be harmful to the Green Belt and contrary to policy SS10 of the Local Plan. I have also found that it would cause material harm to the landscape and Moss Valley Conservation Area contrary to policies SDC3 and SDC5 of the Local Plan. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt. Clearly therefore the degree of harm caused would be significant and I attach substantial weight to the totality of harm caused.
22. I find that the other considerations put forward by the appellant fall short of clearly outweighing the harm identified and thus the very special circumstances necessary to justify the development do not exist. As such the proposal would be contrary to the development plan and Framework considered as a whole. The proposal should therefore be dismissed.

Ian Radcliffe

Inspector