



Appeal Decision

Site visit made on 6 December 2023

by Anthony J Wharton BArch RIBA RIAS MRTPI

an Inspector appointed by the Secretary of State for Levelling Up Housing and Communities

Decision date: 01 December 2023

Appeal Ref: APP/A2335/C/22/3299903

Land off Littledale Road, Brookhouse, Lancashire LA2 9PW

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Chris Jackson against an enforcement notice issued by Lancaster City Council.
 - The breach of planning control as alleged is as follows:
The construction of a hardcore agricultural track and an area of hardstanding.
 - The requirements of the notice are as follows:
To remove the hardcore agricultural track and the area of hardstanding shown within the red edge of Appendix A with approximate location of the unauthorised hardcore track and the area of hardstanding edged in pink and reinstate the land to its former level and condition.
 - The Compliance period is 3 Months.
 - The Appeal is proceeding on ground (a) only as set out in section 174(2) of the Town and Country Planning Act 1990.
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Decision

1. The Appeal is allowed in part and dismissed in part. See Formal Decision below.

Preliminary matter

2. In September 2023, the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Background information

3. The site of the unauthorised hardcore agricultural track and the hardstanding is located across a number of fields to the west of Littledale Road, and approximately 489m to the south of the edge of the village of Caton. The site lies within the open countryside and within the Forest of Bowland Area of Outstanding Natural Beauty (AONB). AONBs have now been rebranded as 'National Landscapes'. There are some residential properties in the vicinity, and the surrounding fields are characterised by hedgerows separating the fields and Littledale Road, as well as a combination of hedgerows, trees and stone walls which separate other fields.

4. A retrospective application for the retention of the unauthorised works was refused by the LPA on 18 November 2021 and an appeal against that decision was dismissed in August 2022.

5. It is stated that the hardstanding and track (approximately 0.9km long and approximately 4m in width) are required to access the Appellant's land, at

Forgelands Farm, from Littledale Road. The land is currently accessed from Quernmore Road via Forge Mill Lane and the bridge, over the Artlebeck River.

6. The Appellant indicates that the farm operations require HGVs to travel to and from the farmland and that the both the lane and 19th century bridge are unsuitable for HGVs. Road signage is in place to notify road users and there have been complaints about the use of the bridge by HGVs. Currently goods have to be delivered elsewhere and then be transported in smaller loads over the bridge. I inspected this route and the bridge during my site visit.

The appeal on ground (a)

Relevant Policy

7. The relevant development plan policies are set out in the Lancaster City Development Management DPD and the strategic policies. These are as follows: DM29 (Key Design Principles); DM44 (The Protection and Enhancement of Biodiversity); DM45 (Protection of Trees, Hedgerows and Woodland) DM46 (Development and Landscape Impact). EN2 (Areas of Outstanding Natural Beauty) and EN3 (The Open Countryside).

8. The National Planning Policy Framework (NPPF) is a major material consideration, and the most relevant sections are Section 12, (Requiring Good Design) and Section 15 (Conserving and Enhancing the Natural Environment).

The Main Issues

9. The main issues are firstly the effects of the track; its access off Littledale Road, and the hardstandings, on the character and appearance of this part of the AONB (National Landscape) and, secondly, the effect on highway safety.

Reasons

Character and appearance

10. Since the Council refused the application, and the previous Inspector visited the site, the physical nature and appearance of the track has changed. At the time of his visit the previous Inspector had noted that the hardstanding area at the Littledale Road end had weathered slightly and that this had 'grassed over' more successfully than other parts of the track. However, at that time most of the rest of the track and the hardstanding areas still comprised the stark, obtrusive, lightly coloured sandstone large chippings.

11. Seeding of the track has taken place since that time and the top layer of large, lightly coloured, stone chippings has been removed for most of its length. The centre of the track now comprises mostly of grass and the 'wheel ruts' on either side appear as a typical 'hoggin' finish. Instead of the large, stark and rather bright-yellowish stone chippings, the tracks either side of the centrally grassed areas now have a more muted and paler hoggin-coloured finish of sand, gravel and clay.

12. Apart from the hardstanding areas, the overall visual result is one of a typical farm track, rather than a strident and obtrusive stone track across the fields. The previous Inspector had also referred to the hardstanding at the southern-most part of the track. Although this may have been pre-existing prior to the track being laid, it is still shown on the plan attached to the notice.

13. From a distance to the west, across the valley and for a lot of its length the track is barely visible. However, some of the wider sections and, where the

hardstanding had been formed adjacent to a large pile of stone scalplings, the work carried out was more noticeable. This was particularly the case on the west sloping parts of the land. The ends of the second section and the third section were the most obvious from a distance.

14. Driving along the track there are 3 distinct sections. Starting from Littledale Road the initial hardstanding, as referred to above, had started to look slightly green and there were signs of the seeding having been successful. Nevertheless, the hardstanding area was still strident and noticeable. It was evident, however, that the top surface of stone finish had been removed.

15. Although the surface was still quite firm the stone removal appears to have resulted in a muddy, more loose and sandy finish. The grass adjacent to the wall has remained verdant. Between the Littledale Road and the gate, some larger stone chippings were still evident and muddy water and clay run-off were evident on the side of the road.

16. The first section of the track climbed gently uphill to the south-west, parallel to the post and wire field boundary, and towards two large trees towards the top of the slope. There was a wide swathe of grass between the fence and the track, and the central section of the track (approximately 1m in width) was also grassed over. The overall result was one of a typical hoggin farm track. Again, with the removal of the larger stone chippings, the wheel tracks were slightly muddy, but still quite firm with the compacted material providing a firm finish.

17. This first section passed some small standing stones to the left, before reaching the point of the first main change in direction. There is a gate at this juncture and the track turns through 90 degrees and then proceeds in a north-westerly direction. It was along this section that the stone scalplings had been piled adjacent to the hardstanding which had been partly grass-seeded but not so successfully.

18. This section ended on the brow of a hill and was slightly wider with less of the middle section being grassed over. From this point there were clear views across the valley to the west from where, later, I was able to look back towards the track from several distant viewpoints. As referred to above, the track was most noticeable as it progressed down the westerly facing slopes of the farmland.

19. The last change in direction is again through 90 degrees and is in a south-westerly direction. This leads down towards the main farmhouse and the hardstanding at the end of the track. The wheel tracks on either side of the central grass strip were slightly wider than those higher up on the land. However, the stark top layer of stone had again been removed and, as in the earlier sections, the track looked like a typical farm track across the land.

20. At the gate to the end of the track, which then opened out onto the hardstanding, there was a noticeable difference in colour between the track itself and the hardstanding. The lighter, muted colour of track contrasted markedly with the brighter yellow large chippings of the hardstanding. Clearly, when the stone chippings formed the full length of the track, it is obvious that its stark finish would have been distinctly more noticeable from both near and distant viewpoints. This is clear from the previous Inspector's decision.

21. My conclusion on the current state of the track is that, for most of its length, it now has the character and appearance of a typical 'hoggin-surfaced' farm track with a central grass strip. In principle, therefore, I find that the track itself is

acceptable and that it does not result in any significant visual harm to the character and appearance of this part of the AONB. However, I still have major concerns about the hardstanding areas which are still distinctly noticeable and harmful to the character and appearance of the AONB from both near and distant viewpoints. I do not consider that these areas should be allowed to remain in place. As well as being one of the visually obtrusive hardstanding areas, the one at the Littledale Road end of the track is inextricably linked to the highways issue.

Highway Safety

22. It is evident that the drawing submitted, purporting to indicate specific visibility splays, was inaccurate. Although the distance looking in a south-easterly direction was reasonable and acceptable, in the opposite direction, looking towards the north-west, the visibility splay fell well short of what was shown on the drawing. For a typical 60mph road I agree with the Highway Authority (HA) that normally minimum visibility splays of 2.4m x 214m in both directions would be required.

23. However, having been driven along Littledale Road in both directions and observing other traffic using the road, drivers do not appear to reach excessive speeds along this section of Littledale Road. It seems to me that this is due to a series of factors including the width of the road, its curvature, and the relatively high hedges on either side.

24. I noted that, having gone past the entrance to Hill Farm to the north, traffic travelling south towards the gateway to the track appears to slow down before rounding the gentle bend to the north of the appeal gateway and another farm gate. This second gate leads into the field immediately to the north of the track and which appears to be in separate ownership. Both gateways are readily noticeable when approaching from either direction.

25. Before my formal site visit, I had noted many farm field access points which opened directly onto similar width roads. These are typical in such rural areas and the AONB is no exception. I also noted some situations whereby some entrances had been set back the necessary 10m, as suggested in this case by the Highway Authority should permission be granted.

26. I agree with the previous Inspector and the HA that large vehicles accessing the track would need to wait in Littledale Road while the gates are opened. I also agree that, although this would be a temporary situation and despite the relatively low speeds, it is likely to be dangerous to vehicles travelling in a southerly direction. The HA has indicated that before the situation can be fully assessed further details would be required and I agree with their conclusion.

27. I have noted the suggested conditions (and reasons) put forward by the HA and have seen the comments made on behalf of the appellant and those by the LPA. Whilst accepting that visibility splay requirements can sometimes be relaxed, subject to HA agreement, I consider that, in these particular circumstances (along this section of Littledale Road), it would also be imperative that a setback be provided. Although sporadic, the deliveries to the farm involve large vehicles which would need to be clear of the highway whilst the gates at the access are opened.

28. I have also noted the LPA's comments on the suggested conditions. Whilst I find the conditions acceptable in principle, I share some of the LPA's concerns about the impact of the setback (as set out in the conditions) on the character and appearance of this part of the AONB. In particular, although a setback could be

acceptable in principle, I consider that surfacing the area with tarmacadam would be harmful to the character of the AONB.

29. I also agree with the HA that some form of hard-bound material rather than 'loose aggregate' (which forms the current hardstanding) would be required. It is also evident that the current water/mud run-off needs to be avoided and that a drainage condition similar to the one suggested by the HA would be necessary.

30. Although I have found the principle of the HA conditions to be acceptable, I do not consider that, as drafted, they can overcome the harm caused by the current hardstanding area adjacent to the road. If the track is to remain and to be used in future for its current purpose, I consider that it is necessary to provide a full engineered design at this point along Littledale Road. This is to ensure that large delivery vehicles can avoid parking on the road whilst the gates are opened, as well as proving a scheme which is visually acceptable in this part of the AONB.

31. In rural areas (including National Parks and AONBs–National Landscapes) the use of concrete and plastic proprietary surfaces, in combination with grass are common features in the landscape, where the occasional use of a hard surface is required. These can provide grass cover of up to 90%, therefore keeping visual intrusion of such hard surfaces to a minimum. In my view this could be a solution in this case but would be a matter between the appellant, the LPA and the HA.

32. In conclusion, therefore, on the highways issue, and even taking into consideration the suggested HA conditions, I do not consider that planning permission should be granted for the hardstanding and the current access off Littledale Road. I have found the hardstanding to be harmful to the AONB and I am not satisfied that the HA conditions would overcome this point.

Overall conclusion

33. Although I have concluded that the track itself is acceptable and that it is no longer visually harmful to the character and appearance of the AONB, I have concluded that the hardstanding areas are still harmful. I have also concluded on the second issue that the highway safety matters relating to the setback, need further consideration to avoid further visual harm being caused to this part of the AONB.

34. However, because I find the track to be acceptable, I conclude that the appeal should succeed in part only, and planning permission will be granted for the track itself but not for the hardstanding areas (including the access off Littledale Road. I shall, therefore, vary the notice by removing the requirement to remove the track. Irrespective of whether or not a new access is agreed, I consider it unreasonable for the appellant to have to remove what is now a typical farm track across his land. Even if the matter of access from Littledale Road is not resolved, the track can still reasonably provide access from the farm to Appellant's fields. I consider that a condition is necessary to avoid the track being re-surfaced with stone chippings.

Other Matters

35. In reaching my conclusions I have taken into account all of the other matters raised by the main parties and the Highway Authority. These include the full planning history; the previous Inspector's decision; the Appellant's initial submissions, the detailed statements; the final comments; the photographic evidence and all matters relating to the Highways issue. However, none of these alters my conclusions on the main points at issue and nor is any other factor of such significance so as to change my decision.

Formal Decision

36. It is directed that the enforcement notice is varied by deleting in full the requirement as drafted in Part 5.1 of the notice (WHAT YOU ARE REQUIRED TO DO) and replacing it with the following requirement:

5.1 To remove the areas of light-coloured, stone chip hardcore areas shown at both ends of the track and in the middle section of the track, as shown in pink within the red line boundary on the Land Plan attached to the notice at Appendix A.

37. Subject to the above variation the appeal is allowed, in so far as it relates to the track only as shown in pink within the red line boundary on the Land Plan at Appendix A to the notice. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act for the track on Land off Littledale Road, Brookhouse, Lancashire LA2 9PW, subject to the following condition:

1. Any remaining hardcore (light-coloured stone chippings) shall be removed from the full length of the track and it shall remain without a hardcore finish (of any type) in that condition thereafter.

38. The appeal is dismissed and the enforcement notice is upheld as varied, in so far as it relates to the hardstanding areas at both ends and in the middle section of the track, and planning permission is refused for the hardstanding on Land off Littledale Road, Brookhouse, Lancashire LA2 9PW.

Anthony J Wharton

Inspector