



Appeal Decision

Site visit made on 7 November 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 December 2023

Appeal Ref: APP/U2750/W/23/3327187

High Pastures, Laverton Road, Kirkby Malzeard, North Yorkshire HG4 3QL

- 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 and Mrs N Bain against the decision of North Yorkshire Council.
 - The application Ref ZC23/01662/FUL, dated 28 April 2023, was refused by notice dated 6 July 2023.
 - The development proposed is formation of new vehicular access from Kirkby Moor Road in revised location and installation of hardstanding to form driveway.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the application form, however I have removed wording relating to the resubmission of the application and reference to a previously withdrawn application as these are not acts of development in themselves.
3. On 22 November 2023 all designated Areas of Outstanding Natural Beauty (AONB) in England and Wales became National Landscapes. The legal designation and policy status of AONBs are unchanged, but I have replaced reference to the Nidderdale AONB with the Nidderdale National Landscape (NNL) in my decision to reflect this change.

Main Issues

4. The main issues are the effect of the proposal on:
 - highway safety, with particular regard to access; and
 - the character and appearance of the area, including the NNL.

Reasons

Highway safety

5. The appellants indicate that the proposed new access is required because the current access on Laverton Road is unsafe for their large vehicles, which includes the use of a horsebox trailer. I have carefully considered their personal experiences of using the existing access, and while it is suggested that there is limited visibility, it has not been shown with any substantive evidence that there has been a particular issue with highway safety at the current access.

Moreover, I note that the Council's highway officer did not have any concerns regarding the safety of this access.

6. I observed Laverton Road to be sufficiently wide for two vehicles to pass, with grass verges on either side of the road. While there are noticeable differences in gradient in the vicinity of the appeal site, I did not observe this to significantly reduce visibility, and at the time of my site visit there was no roadside parking on this section of the road. While subject to the national speed limit of 60 miles per hour (mph), there are traffic calming measures nearby to the existing access to manage vehicle speeds on approach to and leaving the village. I accept that the appellants have local knowledge of the area and the road, however from the evidence before me and the observations from my site visit, I have no clear reason to find that the existing access compromises highway safety.
7. The proposed new access would be at a junction with Kirkby Moor Road, which is a reasonably straight road in the vicinity of the proposed access, with a speed limit of 60 mph. This section of the road serves nearby farm buildings field accesses, and further away a number of residential properties. The road is relatively narrow, flanked along much of its route by grass verges and hedges. While generally level there is a discernible downwards change in gradient on the approach to the junction with Laverton Road at the entrance to the village of Kirkby Malzeard.
8. It is indicated that a 100 metre (m) visibility splay can be achieved to the left and an 85m visibility splay to the right, to the far side of the junction with Laverton Road. Nevertheless, the Council's highway officer states that this does not meet the minimum requirements set out in the Government's Design Manual for Roads and Bridges for the speed limit of the road and that speed surveys would be required to demonstrate that the visibility shown on the plans is sufficient to ensure safe access.
9. While the appellants submissions suggest that the left-hand visibility splay is over 500m this has not been clearly demonstrated on a plan, and even if the grass verge exceeds the required distance back from the carriageway, I have no detailed evidence to demonstrate that the minimum required distance that a driver can see in either direction along the main road can be achieved. Furthermore, there is no substantive evidence, as requested by the Council's highway officer, to justify whether a departure from the minimum distance is appropriate in the circumstances of the appeal site. As such, I am not satisfied that it would be safe for vehicles to exit the site in a forward gear.
10. Information regarding the number of vehicle movements on both Laverton Road and Kirkby Moor Road has been provided. However, the survey was not carried out by a suitably qualified professional, the method of data collection has not been specified and information has not been provided across a number of days to capture a range of data. Therefore, I am not able to assess the validity of the information on traffic movements, which has not been determinative in my assessment of the appeal.
11. To conclude on this main issue, I am unable to assess whether adequate visibility can be achieved at the proposed access. I am not therefore satisfied that the proposal would provide safe access, in conflict with Paragraph 111 of the National Planning Policy Framework (the Framework), which states that if

there would be an unacceptable impact on highway safety, development should be refused.

Character and appearance

12. The appeal site is an open field bounded by hedging on the approach to the village of Kirkby Malzeard, at the junction of Laverton Road and Kirkby Moor Road. The surrounding open countryside is rural in character and the site falls within the NNL, characterised by its rolling pastoral landscape, sporadic farmsteads and traditional dwellings. Accordingly, in considering the proposal, I have had regard to the purpose of conserving and enhancing the natural beauty of the NNL, as set out in Section 85 of the Countryside and Rights of Way Act 2000 and Paragraph 176 of the Framework which requires that great weight is given to conserving and enhancing the landscape and scenic beauty within national landscapes.
13. The proposed development would introduce a new vehicular access track to an area of open land where no built development currently exists. Having regard in particular to the length and width of the proposed track, it would have an urbanising effect on the open field, detrimentally altering the appearance of the appeal site. Replacing the proposed post and rail fence with a hawthorn or beech hedgerow would do little to mitigate the effect of the proposal. While there would be some natural screening owing to existing vegetation, large parts of the track would have a clear visual impact from Kirkby Moor Road.
14. The proposal would be associated with the property known as High Pastures however it would not have a close association with the nearby buildings, owing to the proposed track's considerable length. As such, the proposed development would draw the eye and would have a negative impact on the experience of the scenic beauty of the NNL. Similar access tracks may well be found elsewhere in the NNL. Nonetheless, in this location, the appeal scheme would have a clear visual impact, to the detriment of the rural character of the area. While there have been no objections to the scheme, this is not a reason, in itself, to allow harmful development.
15. As set out above, I have carefully considered the appellants concerns regarding the safety of the existing access and the need for a new access. However, I have not found the existing access to compromise highway safety. Furthermore, access tracks should be kept to the minimum necessary to prevent the erosion of the countryside by increasing the intrusion of built development.
16. Therefore, for the reasons given, the proposal would unacceptably harm the character and appearance of the area, including the NNL, in conflict with Policies HP3, GS6 and NE4 of the Harrogate District Local Plan (2020). Amongst other things, these policies require development to protect, enhance or reinforce characteristics and qualities that contribute to the local distinctiveness of the district's rural environments and landscape character, and to not detract from the natural beauty and special qualities of the NNL.

Other Matters

17. The appellants have expressed frustrations with the Council's handling of the case, however this does not alter or outweigh my findings which are based on the planning merits of this case.

Conclusion

18. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that indicate that I should take a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR