

# Appeal Decision

Site visit made on 28 August 2024

**by Samuel Watson BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 18 September 2024**

---

**Appeal Ref: APP/F1040/W/24/3341321**

**Land off Coalpit Lane, Coton in the Elms**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr M Ross against the decision of South Derbyshire District Council.
  - The application Ref is DMPA/2023/0930.
  - The development proposed is a new site access.
- 

## Decision

1. The appeal is allowed and planning permission is granted for a new site access at Land off Coalpit Lane, Coton in the Elms in accordance with the terms of the application, Ref DMPA/2023/0930, subject to the conditions in the attached schedule.

## Main Issues

2. The main issues are the effect of the proposal on:
  - The character and appearance of the surrounding area; and,
  - The biodiversity value of the appeal site.

## Reasons

### *Character and Appearance*

3. The appeal site is a narrow rectangular field that follows along a portion of Coalpit Lane. It is located next to the car park serving The Bubble Inn and access to the field is also provided from this car park. Coalpit Lane is primarily characterised by mature hedgerows with sporadic trees that closely bound the narrow carriageway. Openings to fields and driveways are also a common feature, this is especially so on the approach to Coton in the Elms where there are a number of domestic driveways.
4. In order to provide the new site access the proposal would include the removal of a section of hedgerow along the Coalpit Lane side. To either side of the opening further sections of the hedge would be reduced in depth to provide a visibility splay. I note concerns that the hedgerow had been cut back significantly. However, at the time of my visit it had largely grown back.

5. Although the proposal would result in the loss of a section of hedgerow this would be a small section that would be very modest in comparison to the full extent of hedgerows along this portion of road. An opening of this scale would be comparable to the surrounding accesses, including nearby field entrances. Although visibility splays are not common, the carriageway and hedges of Coalpit Lane do not follow a straight edge. Therefore, I find that the creation of a bend by thinning the hedgerow would follow the somewhat fluid nature of the road and would not be incongruous.
6. I note the large, solid gate proposed during the planning application process and find it to be very domestic in appearance and more akin to urban residential areas. This gate would be incongruous with the agricultural character of the surrounding area and would not be appropriate. However, the appellant has also provided an amended plan showing a timber five-bar gate.
7. Although the amended plan was submitted after the determination of the planning application, the changes are modest in comparison to the scheme as a whole. I also consider that no one would be prejudiced by my consideration of this amended plan. The five-bar gate is of a style typical for agricultural areas and so would be in keeping with the character and appearance of Coalpit Lane.
8. Collectively, the proposed alterations to the hedgerow and the installation of a gate would not unacceptably affect the character and appearance of the street scene or, more broadly, the surrounding area. The proposal would therefore comply with Policies BNE4 and BNE7 of the South Derbyshire Local Plan Part 2 (the LP2) which, amongst other matters, seek to protect the local distinctiveness and quality of surrounding landscapes, including their components such as hedgerows.

#### *Biodiversity*

9. As noted above the proposal would result in the loss of a section of hedgerow and the reduction in a further two sections. These works would result in the loss of some habitat provision and biodiversity on site. However, given the scale of the existing hedgerows surrounding the site this impact would be modest.
10. The proposal would also introduce an additional row of hedging along the shared boundary with the pub car park. This hedgerow would be significantly longer than the portions lost and reduced as a result of the proposal. Subject to the provision of suitable planting details that demonstrate the provision of appropriate plants, the proposal would not only mitigate the loss above but also provide a biodiversity net gain. I consider that details of planting can be secured through a condition.
11. The Council's policies, particularly BNE3 and BNE7 of the LP2, set out a requirement for a biodiversity net gain. However, these policies do not require a set improvement in terms of a percentage or other measurement. Therefore, whilst I cannot be certain of the likely improvement to stem from the replacement hedgerow, I am nevertheless content that it would provide one in compliance with these policies.

12. As I do not have a planting scheme before me, I cannot be certain of the age of size of any plants to be used in the proposed hedgerow. However, it is very unlikely that they would be of a size or age comparable with the existing hedgerow. Whilst a younger plant may not contribute as much towards biodiversity, it would be able to grow to provide this. The Council would be able to consider any subsequent planting scheme for the size of the proposed replacements and their growth time.
13. In light of the above, and subject to the submission of a suitable planting scheme, the proposal would protect and enhance the biodiversity value of the appeal site. The proposal would therefore comply with LP2 Policies BNE3 and BNE7 which require proposals to protect and enhance biodiversity, delivering net gains where possible. As part of this, developments should take account of the ecological value of lost planting be secure their appropriate replacement.

### **Other Matters**

14. Although the existing access across the car park may be useable by the appellant this does not preclude me from finding that a new access is acceptable. Similarly, whilst a demonstrable need for a new vehicular access may not have been demonstrated, such a need is not required under the policies upon which this appeal turns.
15. I note from the submissions before me, and my site visit, that the road has a 30mph speed limit. Although I note concerns about vehicles speeding in this section, this is anecdotal, and I have no substantive evidence to demonstrate that the road is unduly unsafe. Lacking any evidence to the contrary, this proposal would not unacceptably harm highway safety along Coalpit Lane.
16. I must consider only the appeal as it is before me and I cannot take account of any potential future intentions the appellant may, or may not, have for the site. Therefore, whilst I note concerns about a future application for the erection of a dwelling, that is beyond the scope of this appeal. Any such application, should one be submitted, would need to be considered by the Council.
17. The proposal would introduce a small section of tarmacadam to form the access drive. Although its scale would not cause an unacceptable increase in flood risk, any slope towards the carriageway could cause surface water runoff. Such runoff could affect the operation of the road and a condition would be necessary to ensure this doesn't occur.

### **Conditions**

18. I have had regard to the conditions suggested by the Council and the advice on planning conditions set out by the Framework and the Planning Practice Guidance. In the interests of clarity and enforceability, I have made some changes to the wording.
19. For certainty, I have set out the timescale for the commencement of development. A condition is also necessary, for certainty and enforceability, requiring that the development is carried out in accordance with the approved plans.

20. The submission of a landscaping and biodiversity plan is required for the purposes of ensure that any harm is mitigated, and biodiversity gains are achieved. A condition controlling what sections of hedgerow can be removed is not required as this would be covered by the landscaping and biodiversity plan.
21. In the interests of highway safety and preventing surface water runoff, conditions are necessary covering the creation and formation of the vehicular access. A condition is also necessary, restricting the dates between which any works to the hedgerow can be taken, in the interests of protecting nesting birds.

## **Conclusion**

22. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed.

*Samuel Watson*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing ref 4714-003.
- 3) Prior to commencement, a detailed Landscaping and Biodiversity Plan shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use. The development shall be implemented in accordance with the approved details.
- 4) The area forward of the sightlines shown on drawing ref 4714-003 shall be cleared and maintained of any obstruction exceeding 0.6m in height relative to the nearside carriageway edge.
- 5) The development hereby permitted shall not be brought into use until the access drive has first been surfaced with a hard bound surface (not loose aggregate) for a distance of at least 5 metres from the edge of the highway. Measures to ensure surface water does not flow from the site to the public highway shall be provided. The access shall be maintained in perpetuity.
- 6) No vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by a competent ecologist no more than 48 hours prior to clearance. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present.