

Appeal Decision

Site visit made on 17 September 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th October 2024

Appeal Ref: APP/W4705/W/24/3345778

**Road at Grid Ref 420151 439289 Apperley Lane, Apperley Bridge,
Bradford, West Yorkshire LS19 7EG**

- 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 Steve Beamish against the decision of City of Bradford Metropolitan District Council.
 - The application Ref is 23/03433/FUL.
 - The development proposed is the realignment and improvement of the existing site access.
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Decision

1. The appeal is allowed, and planning permission is granted for Realignment and improvement of the existing site access at Grid Ref 420151 439289 Apperley Lane, Apperley Bridge, Bradford, LS19 7EG in accordance with the terms of the application, Ref 23/03433/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following drawings:
 - No.0000 – P01 Location Plan,
 - No.1100 – P03 Ex/Prop Junction Layouts,
 - No.1150 – P01 Landscaping & Sections.
 - 3) That notwithstanding the details on the plans listed in condition 2, details of the gradient of the improved access shall be submitted to and approved in writing by the local planning authority prior to the improvement works taking place. The development shall be carried out in strict accordance with the approved details and maintained as such thereafter.

Application for costs

2. An application for costs was made by Mr Steve Beamish against the City of Bradford Metropolitan District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. In their decision, the Council alleges that the failure of the appellant to serve notice on Leeds City Council at the time of the application, as owners of the highway verge means, that the application failed to meet the procedural requirements as prescribed by the Town and Country Planning (Development Management Procedure) (England) Order 2015 (the DMPO). Despite that, the Council issued a decision on the application.
4. Planning Inspectorate guidance requires that notice be served on all landowners if an appeal is made. The appellant has provided confirmation that this has been done.
5. There is no suggestion that this was anything more than an oversight. Leeds City Council were served with notice in line with Planning Inspectorate guidance, and there is confirmation within the papers that irrespective of the proper service of notice, they were aware of the proposal and have no concerns with the way in which the Council have dealt with the proposal. I am therefore satisfied that having regard to the nature of the failure to comply with the DMPO, the effect of that failure and the lack of any prejudice to any other parties, it is appropriate for me to exercise my discretion and allow the appeal to proceed.

Main Issues

6. Having regard to the above matters, the decision of the Council and the location of the site, the main issues are whether the proposal would be inappropriate development in the Green Belt including the effect of the proposal on the openness of the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, the effect of the proposal on highway safety, and the effect of the proposal on the character and appearance of the area.

Reasons

Whether inappropriate development

7. The appeal site is within the Green Belt. The appeal proposal is an engineering operation which is explicitly set out in the Framework as one of those forms of development which are not inappropriate within the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.
8. The Council makes clear in their Officer Report that they are satisfied that the proposal preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. Having had regard to the existing condition of the site, the details of the proposal and the likely effects of it, I agree with this position and am satisfied that the proposal would preserve the openness of the Green Belt and would not conflict with the purposes of including land within it. I am satisfied that my findings on the effect of the proposal on the Green Belt would not be affected by the proposed condition and necessary works around site gradients.
9. The appeal proposal is therefore not inappropriate development in the Green Belt.

Highway safety

10. At the appeal site Apperley Lane is subject to a 40mph speed limit. As a result, visibility splays of 2.4m x 120m are required. To the right, the south, this splay is easily achieved and is not at issue. To the left, the north, a combination of vegetation within the verge and the geometry of the road apparently limits the achievable visibility splay to 2.4m x 118m. This is clearly a shortfall against the technical requirements.
11. However, following the Council's decision on the application, the appellant carried out a 7-day Automatic Traffic Count (ATC) to measure traffic speeds in both directions at appropriate locations to the north and south of the proposed access. Although they note potential shortcomings with such counts, ultimately neither the data from nor the methodology of that ATC is disputed by the Council, and as a result, I also have no reason to question it.
12. That ATC demonstrated that traffic from the left, heading south, downhill past the site had an 85th centile speed of 32.4mph, whereas traffic from the right, heading north, uphill past the site had an 85th centile speed of 34.3mph. This is consistent with my general impressions from my site visit. As a result of these measured speeds the appellant suggests that different criteria should be used to establish the required visibility splays, and that the splays required would be much shorter, at 2.4m x 56m and could be very easily achieved.
13. Whilst I note that approach to the observed traffic speeds and visibility splays, the speed limit for the road is 40mph, and although it provides no evidence to support it, the Council is concerned over excess speed at times, particularly southbound reflecting frustration from being delayed at traffic lights. Given that mixture of evidential support for a 2.4m x 56m visibility splay and the provision of a 2.4m x 118m visibility splay to the north, I am satisfied that although there is a 2m shortfall against the technical requirement, it is a minor one and not so great, given the conditions at the site, to warrant the appeal being dismissed. In this, I note that the 2.4m x 118m visibility splay is provided largely within the footway and does not require any works to trees.
14. I also note the significant concession from the Council that the Leeds Transport SPD (on which they rely in the absence of their own street design guide) would require in this case an approximately 80m visibility splay, which is plainly achievable, falling between that advocated by the appellant and that available at the site. Given that, a vision splay appropriate for the location is achievable.
15. The Council is concerned that the gradient of the proposed access would not be appropriate. Although the proposal relates to an existing access, the appellant has nevertheless suggested that a condition be imposed requiring approval of gradients, in order to both address the concerns of the Council whilst also providing a solution appropriate to the appeal site and its surroundings. I am satisfied that a condition would be appropriate in this situation and have attached one.

16. I therefore find that the proposal would not harm highway safety. As such, it would not conflict with Policy DS4 of the Local Plan for Bradford District Core Strategy Development Plan Document, adopted July 2017 (the Core Strategy), or national policy on highway safety in the Framework.

Character and appearance

17. Although the side of the road where the site is located is fairly open and rural, with long countryside views it is so within the context of an established rural business, a farm complex and cottages, with hedging, fencing and walling in the area. The opposite side of the road is more built-up, with a lengthy stone wall, other boundaries and other built-form giving that side of the road a more developed and urban character.
18. Despite the long countryside views available from Apperley Lane towards the countryside, views of the site itself (noting that the appeal site is clearly distinct from all of the land in the ownership or control of the appellant) from the wider countryside are more limited, and within the context of the urban edge character to the site.
19. As the Council and appellant have noted, the appeal site is within the Esholt Landscape Character area as defined by the adopted Bradford Landscape Character Supplementary Planning Document. Whilst the proposal would require the removal of an extremely small amount of vegetation adjacent to the highway, having visited the site and its surroundings, I do not consider that this would have a significant effect on the character and appearance of the area.
20. I am therefore satisfied that the proposal would not harm the character and appearance of the area. As such, it would not conflict with Policies EN4 or DS2 of the Core Strategy, which seek, amongst other things, to ensure that development integrates into the wider landscape and considers any adverse landscape or visual effects.

Other Matters

21. Much has been made in evidence to the appeal from the Council, the Local Highway Authority and third-parties as to the use of other land in the same ownership, and the potential for the use of the site to intensify as a result of the proposal, and any direct or indirect effects of that. However, as the appellant rightly points out, the appeal proposal does not deal with the use of other land owned or controlled by the appellant. It is simply for the realignment and improvement of the existing access, and the relevant appeal site is that defined by the red line shown on the submitted plans.
22. The Council has confirmed that the access is a lawful one, and as a result, I have not taken into account comments concerning the use of other land.
23. I am aware that there was a previously dismissed appeal on land close to the appeal site, which sought to realign the access track through the construction of a new access road and access. Whilst I have read that decision and been provided with some of the plans which accompanied it, given the differences between that proposal and this one, the conclusions of that Inspector do not affect my conclusions in this appeal. Further, given the evidence before me in this appeal, including that technical evidence on traffic speeds and visibility

splays, I am satisfied that there is no inconsistency between the two decisions, and that the important principle of consistency in decision making is maintained.

Conditions

24. Having had regard to the requirements of the National Planning Policy Framework and the Planning Practice Guidance I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2). On the suggestion of the appellant, I have added a condition (3) which requires the submission, approval of the gradients of the proposal, as well as requiring its implementation and maintenance thereafter.

25. The Council has suggested that because the appeal proposal requires amendments to the adopted highway an agreement under s278 of the Highways Act 1980 will be required and that this should be secured by condition. However, as planning decisions are only concerned with the form of the access, not the methods to be used in its construction, such a condition is not necessary and has not been imposed.

26. I am therefore satisfied that the conditions I have imposed meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.

Conclusion

27. For the reasons given above, I find that the proposal complies with the development plan, and the appeal should therefore be allowed.

S Dean

INSPECTOR