



Appeal Decision

Site visit made on 2 April 2025

by R Curnow MA(TCP), BSC(Hons), CMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2025

Appeal Ref: APP/K1128/C/24/3346561

Land at Coleridge Farm, Chillington, Kingsbridge, Devon TQ7 2JG

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeal is made by Mr Richard Darke against an enforcement notice issued by South Hams District Council.
 - The notice was issued on 6 June 2024.
 - The breach of planning control as alleged in the notice is Without planning permission, the widening of the farm access and the construction of a cattlegrid, gate and concrete hardstanding on the land.
 - The requirements of the notice are: 1. Remove the concrete hard standing, cattle grid and gate; and 2. Reinstate the farm entrance to its former condition including the replanting of the hedgerow in its previous location.
 - The period for compliance with the requirements is: 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (b) and (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the widening of the farm access and the construction of a cattlegrid, gate and concrete hardstanding at Coleridge Farm, Chillington, Kingsbridge, Devon TQ7 2JG as shown on the plan attached to the notice.

‘Hidden’ Ground (c)

2. The Appellant made an appeal under Ground (b); this is that the alleged breach of planning control has not occurred. The development that is alleged in the Notice has quite clearly occurred. The case he puts forward is based on his belief that planning permission was not required for it. This is an argument that falls to be considered under a Ground (c) appeal, which deals with cases where development has occurred but does not constitute a breach of planning control.
3. In its Statement of Case (‘SoC’), the Council has addressed this as it would in a Ground (c) appeal. As such, I can address the case on that basis without injustice. Ground(c) is a legal ground where the onus lies with the Appellant to make his case on the balance of probability.
4. The Appellant refers to a meeting with, amongst others, an Officer of the Highways Authority. At this, he says, it was concluded that the road is unclassified and, therefore, planning permission was not required for the development.

5. For its part, the Council tells me that the road is classified as a Class C road, and under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('GPDO'), planning permission was required.
6. The Appellant has not provided any evidence that shows the road to be unclassified. His evidence is, therefore, imprecise and he fails to make his case in the required manner.
7. The works that have been undertaken to create the reconfigured access are undoubtedly engineering operations that are development as defined in s55 of the 1990 Act. Part 6 of the GPDO sets out the permitted development rights available for agricultural development on holdings in excess of 5ha. Class A (b) of Part 6 states that "any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit" are permitted development and a planning application for them would not be required. However, this is subject to a number of conditions and provisos.
8. One such proviso is found in Part 6, Class A, A.1(h) of the GPDO. It states that where "any part of the development would be within 25 metres of a metalled part of a trunk road or classified road" it would not be permitted development, and a planning application would be required. The work that has been undertaken abuts the highway.
9. It has not been demonstrated in a precise and unambiguous manner that, on the balance of probability, the development does not require planning permission. Although I find that the works are reasonably necessary for the purposes of agriculture on Coleridge Farm, my finding is that the road is classified and that the engineering operations are within 25m of it. Thus, it was not permitted development and planning permission is required for the work.
10. For the above reasons, the Ground (c) case fails.

Ground (a) and the Deemed Planning Application

11. An appeal made under Ground (a) is that planning permission should be granted for the breach of planning control alleged in the Notice.

Main Issues

12. The main issues are the effect of the development on:
 - The character and appearance of the area;
 - Biodiversity; and
 - Highway safety.

Reasons

13. Coleridge Farm is a large farm that lies in the open countryside, a little under a kilometre to the north of the village of Chillington to which it is linked by a narrow lane. This lane continues to run north from the farm to a junction with another lane running broadly east to west ('the junction'). The appeal site lies a short distance to the west of the junction. I have few details regarding the farm, save for reference to 400 dairy cows in the Appellant's submissions.

Character and appearance

14. The topography of the area is that of a plateau that has been incised by stream valleys, which are often quite deep. The east-west lane on which the site lies runs along one of the areas of higher, largely level land between streams. As is the case around the appeal site, outside of the area's small villages the land is overwhelmingly in agricultural use. This is a mix of arable and livestock farming in generally large fields.
15. The nature of the east-west lane is typical of the area. It is narrow and enclosed by high hedges. It has no footways, nor lighting. These are, essentially, substantial earth banks from which a variety of vegetation grows profusely, including some low trees. The junctions between the area's narrow lanes are generally not very wide; the junction is atypical, being far wider.
16. The area is not subject to any landscape designation, but it is undoubtedly pleasant and attractive.
17. Coleridge Farm uses land on both the north and south side of the east-west lane. To move livestock from the extensive farmyard to the fields on the north side of the lane, a track runs within the field between the farm and the lane. This runs parallel to the road running north from the farm, before running a short distance along the northern edge of the field to a gate giving access onto the road. It is at the end of this short stretch of the track that the operational development has occurred. The purpose of the works is to allow animals to safely cross the road to fields on its northern side.
18. The hedge that runs along the south side of the lane, to the west of the junction, has been remodelled. From a point close to the edge of the junction westwards to the crossing, it has been cut back at an angle away from the road. On the other side of the gate, it appears that a short stretch of hedgerow has been removed, and a new section provided that runs back at an angle into the field.
19. All of the area between the lane and the hedge that has been cut back at an angle, and much of that between the lane and the stretch of replacement hedge, has been concreted. There is a gate and fence within the farmer's land where the livestock track reaches the concreted areas. When the gate is opened, it allows livestock to move towards the road.
20. On the concreted area, two gates have been installed that swing open across the road. They stop traffic on the road and, together with the two cattle grids and poles that swing across from the hedge on the north side of the lane, guide livestock to the land to the north.
21. The development is not large. It is only seen from close-quarters and not at all in wider views. Given the presence of field gates into the land to the north and south of the lane and the cattle grids, it is obvious that the development has an agricultural purpose. Although it is an unusual feature, and that the swinging gates have been painted yellow, its obvious agricultural function allows it to sit comfortably in the local scene.
22. Whilst the development has brought change to the area, its character and appearance has not been subject to "significant and adverse landscape or visual impacts" that are referenced amongst the terms of Policy DEV23 of the Plymouth

and Southwest Devon Joint Local Plan 2014-2034 ('JLP'). I find that the development accords with this policy.

Biodiversity

23. JLP Policy DEV26 relates to protecting and enhancing biodiversity and geological conservation. Among its general thrust is that development should support the protection, conservation, enhancement and restoration of biodiversity. As I have not been told that the land benefits from any biodiversity designation, its point 6 is relevant. This sets out that development will provide for the long-term management of biodiversity features retained and enhanced within the site, or for those features created off site to compensate for development impacts.
24. Neither party has provided any substantive evidence on the issue. One of the images submitted by the Council as appendices to its Statement of Case show that when the works were undertaken, the remodelled and new hedges were stark and bare.
25. However, as I saw at my site visit, both the area of hedge that has been cut back and the stretch of replacement hedgerow are being colonised by plants. Furthermore, I am told that saplings have been added. They did not appear to have the range of species, nor the thickness of growth, that the undisturbed hedges of the area have. However, it is clear that they are naturally revegetating. I have little reason to find other than the hedge will soon regain the look and growth of other hedges in the area.
26. Therefore, my finding is that there has been a very limited adverse effect on biodiversity, but this will be redressed in the short term. As such, I find that the development accords with the aims of JLP Policy DEV26.

Highway safety

27. There is no reference to any adverse effects of the development on highway safety in the Notice. This is first mentioned by the Council in its SoC. Notwithstanding this late submission, the Appellant did have an opportunity to respond, as he did in his Final Comments. Therefore, I need not go back to him on the issue.
28. As part of my site visit assessment, I both walked and drove the section of the east-west lane from Sherford Cross, estimated by the Appellant to be 200m to the west of the site, to a point to the east of the junction. I also observed traffic using the lane.
29. At Sherford Cross, the east-west lane meets a lane running north from Chillington. The latter road has priority. There are no splays at the crossroads and movements from one lane into the other involve 90-degree turns, and, due to the narrowness and high hedges, there is little more than a few metres forward visibility for drivers. Those driving from west to east, over the crossroads towards the appeal site, have to stop and proceed with extreme caution as they are crossing the north-south road with the same lack of visibility.
30. As such, drivers entering the lane from Sherford Cross are moving very slowly. This traffic does, of course, accelerate away from the junction. However, due to the nature of the lane it is moving at a far lower speed than the national speed limit to which the lane is subject.

31. The stretch of the east-west lane from Sherford Cross to the appeal site gently slopes and has a very wide curve in it. There is what appeared to be a disused agricultural building on the south side of the lane roughly midway between Sherford Cross and the appeal site. The appeal site is visible from a point a short distance to the west of this.
32. From the east, the east-west lane rises towards the junction with the lane from the farm, and the appeal site crossing beyond. I estimate that the gates would be visible to drivers heading in this direction to be roughly half the distance available for those approaching from Sherford Cross.
33. In the lack of any technical data from the Council to lead me to find to the contrary, my assessment is that, given its nature, drivers on the east-west road have sufficient forward visibility to the site. This gives them time to react safely, when the crossing is in use.
34. In its SoC, the Council states that a result of the work is an increase in the use of the crossing. No evidence has been put forward to substantiate this claim, and the Appellant states that this is not the case. His evidence shows that this crossing, in an unmodified form, was previously used by livestock accessing the northern fields. On the basis of the evidence before me, I find, on the balance of probability, that there has been no increase in its use.
35. The Council's comments refer to discussions with a Highway Officer. I note that there is no reference to that Officer objecting on safety grounds. The comments attributed to the Officer related to obstructing the highway, as were those reportedly made by the Police. This is a matter that has also been raised by the Stokenham Parish Council. The manner in which the gates and cattle grids have been set out would enable farm staff to stop the herd from crossing the road and allow traffic to continue over the grids. I am told that the lane is considered to be "strategically important" should the main road that runs through Chillington to Slapton be blocked. As the evidence shows that the obstruction of a highway is a matter that is covered by other legislation, it is not a matter that I need address.
36. The Council told me that Policy DEV29 of the JLP refers to highway safety, though it did not submit a copy of this. From the SoC, which was not countered by the Appellant, amongst its terms is a requirement for developments to allow for safe and satisfactory traffic movements. This development allows for this.
37. The Council suggest that a condition requiring the removal of the gate for safety reasons when it is not in use be imposed. The Appellant tells me that, in the 9 months that the gates had been in-situ before he made his submissions, there had been no accidents at the site. I have not been told of any incidents since the written submissions. As it has not made a substantive case to show that the crossing is dangerous, and I find that it is not, it is not reasonable nor necessary to attach such a condition.
38. For the reasons given above, I find that there is no adverse effect on highway safety arising from the development, which accords with the terms of JLP Policy DEV29 that I have been referred to.

Conclusion

39. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the widening of the farm access and the construction of a cattlegrid, gate and concrete hardstanding as described in the notice. The appeal on ground (f) does not therefore fall to be considered.

R Curnow

INSPECTOR