The Planning Inspectorate

# Appeal Decision

Site Visit made on 13 July 2021

**by A Owen MA BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27th July 2021**

**Appeal Ref: APP/B3438/D/21/3274342**
**Stanhopea, Mill Lane, Wetley Rocks ST9 0BN**

- 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. & Mrs. R. & D. Hartley against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2020/0575, dated 15 October 2020, was refused by notice dated 11 February 2021.
- The development proposed is formation of vehicular access.

## Decision

1. The appeal is allowed and planning permission is granted for formation of vehicular access at Stanhopea, Mill Lane, Wetley Rocks, ST9 0BN in accordance with the terms of the application, Ref SMD/2020/0575, dated 15 October 2020, 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 approved plans: Location Plan, 1685-01 and 1685-02.

    3) The gates hereby permitted shall be located a minimum of 5m rear of the carriageway boundary and shall open away from the highway in accordance with the approved drawing No. 1685-02.

    4) The access hereby permitted shall not be brought into use until details of the 2.4m x 43m visibility splays in both directions, shown to the near kerbline, have been submitted to and approved in writing by the local planning authority. The visibility splays shall be provided in accordance with the approved details prior to the access being brought into use and shall thereafter be kept free of all obstructions to visibility over a height of 900 mm above the adjacent carriageway level.

    5) The access hereby permitted shall not be brought into use until the access drive has been surfaced, and thereafter maintained, in a bound material for a minimum distance of 5m back from the carriageway edge in accordance with approved drawing No. 1685-02.

    6) Within three months of the development hereby permitted being brought into use, the existing site access made redundant as a consequence of the development hereby permitted shall be permanently closed and the access crossing reinstated as verge in accordance with drawing No. 1685-02.

## Preliminary Matter

2. The Government published, on 20 July 2021, a revised version of the National Planning Policy Framework (the 'Framework'). I have had regard to the revised document as a material consideration in my decision. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that it is not necessary to seek the parties comments on the revised Framework, and I consider no party would be disadvantaged by this approach.

## Main Issues

3. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
- The effect of the development on the character and appearance of the area; and
- Is the harm by reason of inappropriateness, and any other harm, clearly outweighed by other considerations, and if so, does this amount to the very special circumstances required to justify the proposal.

## Reasons

*Inappropriate development?*

4. Part 6 of Policy SS10 of the Staffordshire Moorlands Local Plan (the 'Local Plan') states that strict control will be exercised over inappropriate development in the Green Belt, only allowing for exceptions as defined in Government policy. Government policy is set out in the Framework and, as highlighted by both parties, paragraph 150 of the Framework identifies that engineering operations are not an inappropriate form of development in the Green Belt providing they preserve its openness and do not conflict with its purposes.

5. The proposed vehicular access would involve dropping the kerb on Mill Lane, laying a new tarmac surface between the kerb and the house and the installation of entrance gates flanked by stone walls. It appears that previously a stone wall ran continuously along the frontage of the site, but there is now a gap in the wall in the position where the access is proposed.

6. At present much of the area the tarmac would cover is already surfaced with gravel. The change of surfacing material from gravel to tarmac would not have any material impact on openness. The area of tarmac that would cover the grass, including that on the highway verge, would have a more urbanising appearance, but it would not affect openness in a visual or spatial sense.

7. However, the provision of the entrance gates and flanking stone walls would constitute a form of enclosure being introduced into a part of the garden that currently is open. It therefore cannot preserve openness and hence must be inappropriate development in the Green Belt, as defined by the Framework and policy SS10 of the Local Plan.

8. Due to the modest height and length of the stone walls and the permeable design of the gates, the harm to openness would be limited. Nonetheless,

paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt.

*Character and appearance*

9. The site is positioned within a collection of houses on the south side of Mill Lane. Many of these, including Spring Cottage Farm and Old Fox Brewery, have vehicular entrance gates at their frontage. These properties also have stone walls to their front.

10. Within this context, the vehicular access, although appearing more urbanising than the existing grass, would not appear incongruous. Moreover, the entrance gates would have a simple rustic design and the stone wall would simply reflect the wall along the frontage of the site. The development would be modest in scale and would not appear excessively prominent. Overall, the development would preserve the character and appearance of the area. It would therefore accord with policy DC1 of the Local Plan which aims to ensure development respects the site and its surroundings, and Local Plan policy DC3 which seeks to protect the local landscape.

11. The Inspector for a previous appeal[1] for a similar development at this site concluded that that development would harm the character and appearance of the area due to the extent of hardstanding and the loss of the unbroken walled frontage. As this unbroken frontage wall no longer exists and less grass would be lost by the current scheme, the two proposals are not directly comparable.

*Other considerations*

12. The appellant states that the existing vehicular access, shared with Foxdale, has poor visibility onto Mill Lane. The highways authority comments that visibility from this access could be improved by the removal of the stone pillars which flank that entrance. I agree that these pillars restrict visibility from the existing access. Although the resident of Foxdale agrees that the visibility is poor, there is no indication that they would remove the pillars to improve visibility, and in any case there would be no way to ensure this.

13. The highway authority raise no objection to the proposed access subject to the provision of further details of visibility splays. As such, the proposal would provide the dwelling with an access with better visibility than at present. This is a distinct benefit.

14. Clearly the proposal would not improve visibility for the residents of Foxdale who would continue to use the existing access. However reducing the volume of traffic using the existing access would be of benefit to the occupiers of Foxdale as it would eliminate the possibility, albeit slim, of cars from the dwellings confronting each other at the access. This access is not wide enough for two cars to pass, so in this scenario may require a vehicle to wait partially on the highway to allow a car to leave the access first. This would be a risk to highway safety.

15. Overall, I consider these considerations carry significant weight.

[1] Ref APP/B3438/A/12/2174657

## Green Belt Balance

16. Paragraph 148 of the Framework sets out that very special circumstances will only exist if the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. In this case I find the other considerations identified above do clearly outweigh the harm that I have identified. Therefore, looking at the case as a whole, I consider that very special circumstances exist which justify the development.

17. The Inspector of the previous appeal found the only consideration to weigh against the harm to the Green Belt was the preference of the appellant to have a separate access. However as I have evidence relating to the safety of the existing access before me which, it would appear, was not before the previous Inspector, there is a material difference between the two cases.

## Conditions

18. I have considered the Council's suggested conditions, including those suggested by the highways authority. Where necessary, and in the interests of clarity and precision, I have slightly altered the conditions to more closely reflect the advice in the Framework and the Planning Practice Guidance.

19. The standard condition relating to the commencement of development and a condition identifying the approved plan are necessary in the interests of certainty.

20. I have also imposed the suggested conditions relating to the provision of access gates, visibility splays and the closing up of the existing access. I have included the suggested condition relating to the surfacing of the driveway, however I have amended it by removing the unnecessary requirement for the driveway beyond the first 5m to be surfaced with porous materials. This requirement would not reflect the proposal plans where the drainage system is shown as being the existing storm water drainage channel and a large underground storage tank, which the highways authority, in their consultation response, consider is acceptable. These conditions are all necessary in the interests of ensuring highway safety.

21. I have not attached the condition which prevented the access from being brought into use until that part on the public highway was completed, as this seemed very unlikely and so the condition is unnecessary.

## Conclusion

22. The development does not accord with the development plan taken as a whole but there are material considerations to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, and having had regard to all other matters raised, the appeal is allowed.

*A Owen*

INSPECTOR