

12. SECTION 73 APPLICATION FOR THE VARIATION OF CONDITIONS 2 AND 3 ON NP/DDD/1213/1149 FOR CONSTRUCTION OF DETACHED GARAGE AND RESIDENTIAL DRIVEWAY WITH PERMANENT VEHICULAR ACCESS OFF MAIN ROAD, WITH CHANGE OF USE PERTAINING ONLY TO PART OF DRIVEWAY CROSSING VACANT AGRICULTURAL LAND, FIVEWAYS, MAYNARD ROAD, GRINDLEFORD. (NP/DDD/1019/1110 – Grid Ref 424963/378300 DH)

APPLICANT: MR MICHAEL PECKETT

Summary

1. The application seeks permission to vary conditions 2 and 3 attached to permission NP/DDD1213/1149 which amongst other things permitted a vehicular access. This proposal would facilitate changes to the design of the track. However, the proposal to allow lighting bollards along the track is considered to add domestic features into the field which is not domestic curtilage and would have an unacceptable impact on the character of the site.

Site and Surroundings

2. Fiveways is a large detached late C20th property standing at the end of Maynard Road, on the northern side of Grindleford. The field between the domestic curtilage of the house and the east side of the main road through the village (the B6521) is in the same ownership. The field is directly to the south of the Maynard Arms Hotel and north of the access to Underhill. Neither the house nor the field lie within the designated conservation area. A public right of way (PROW) runs east to west through the field, linking Maynard Road with the main road.

Planning permission for the construction of a detached garage and residential driveway with vehicular access off the main road, through the field was granted in 2014. The development has commenced, but is not in accordance with the approved plans.

Proposal

3. Section 73 application for the variation of conditions 2: compliance with the approved plans and 3; no lighting to be provided to the driveway through the field, on NP/DDD/1213/1149. To allow a reduction in the width of the driveway and the central grass strip, for change to tarmac surfacing at the access with the main road and for 4No lighting bollards to be installed along the driveway running along the boundary of the Maynard Arms Hotel.

Recommendation

That the application be APPROVED subject to the following conditions:

1. **Conditions restated from application NP/DDD/1213/1149 with condition 2 amended to reflect the plan references now proposed and with condition 3 restated without the requested change.**

Key Issues

4. The key issues are whether the proposed amendment to the approved plans and the installation of lights (prohibited by condition 3) along the north boundary of the field would have a negative impact on the development, the site setting, the wider landscape area and/or adversely affect the amenities of the area or any neighbouring properties.

History

5. NP/DDD/1213/1149 – Construction of detached garage and residential driveway with permanent vehicular access off Main Road, with change of use pertaining only to part of driveway crossing vacant agricultural land - Granted subject to conditions – 24/06/2014
6. Enforcement case reference 15/0008 – Breach of conditions 2, 3, 6 & 11 on NP/DDD/1213/1149
7. NP/DDD/0619/0679 - Section 73 application for the variation of conditions 2 and 3 on
8. NP/DDD/1213/1149 – to reduce the width of the approved driveway and have four bollard lights along the northern boundary - Withdrawn

Consultations

9. Derbyshire County Council (Highway Authority): No objections to the proposals as submitted. Subject to the visibility splays being maintained as indicated on the drawing.
10. Derbyshire Dales District Council: No response to date.
11. Grindleford Parish Council: With one exception, the PC has no objections to the revised application. The exception is the lights, which are already installed. The PC strongly objects to the lighting, which is not in keeping with an unobtrusive track across undeveloped land in this area. The wall should also be reinstated at the uphill roadside corner of the plot.

Representations

12. During the consultation period, the Authority has received three formal representations and 6 anonymous representations. They all object to the proposal, the concerns raised are:
 - the need for the track at all,
 - the need for lights,
 - the visual impact of the development.

National Planning Policy Framework (NPPF)

13. National Park designation is the highest level of landscape designation in the UK. The Environment Act 1995 sets out two statutory purposes for national parks in England and Wales: Which are; to conserve and enhance the natural beauty, wildlife and cultural heritage and promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public. When national parks carry out these purposes they also have the duty to; seek to foster the economic and social well-being of local communities within the National Parks.

14. The National Planning Policy Framework (NPPF) has been revised (2019). This replaces the previous document (2012) with immediate effect. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In particular Paragraph 172 states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to these issues.
15. In the National Park, the development plan comprises the Authority's Core Strategy 2011 and the Development Management Policies (DMP), adopted May 2019. These Development Plan Policies provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. In this case, it is considered there are no significant conflicts between prevailing policies in the Development Plan and government guidance in the NPPF.

Main Development Plan Policies

Core Strategy

16. GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GPS1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.
17. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
18. Policy DS1 sets out what forms of development are acceptable in principle. L1 identifies that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural Zone will not be permitted.

Development Management Policies

19. Policy DMC3 states that where development is acceptable in principle, it will be permitted provided that its detailed treatment is of a high standard that respects, protects and where possible enhances the natural beauty, quality and visual amenity of the landscape, including the wildlife and cultural heritage that contribute to the distinctive sense of place. Particular attention will be paid to siting, scale, form, mass, levels, height and orientation in relation to existing buildings, settlement form and character, and the degree to which buildings and their design, details, materials and finishes reflect or complement the style and traditions of the locality as well as other valued characteristics of the area.

20. DMT3 relates to access and design criteria. It states that where development includes a new or improved access onto a public highway it will only be permitted where a safe access is achievable and can be provided in a way which does not detract from the character and appearance of the locality. It goes on to say that particular attention should be given to the need for the retention of hedges, walls and roadside trees.
21. Also of relevance is policy DMT5 Development affecting a public right of way, as the new driveway crosses a public right of way.

Assessment

22. Section 73 of the Town and Country Planning Act 1990, as amended (the 1990 Act), provides that any application may be made for planning permission without complying with conditions applied to a previous permission. This facilitates conditions to be struck out, or for their modification or relaxation. Equally, s.73 of the 1990 Act allows the Authority to decide whether to grant permission for the current application subject to different conditions imposed on the original permission, remove the conditions imposed on the original permission altogether, or refuse to alter the conditions. It is not possible to reconsider the principle of the grant of permission for the development and no weight can be given to objections which question the principle of the development.
23. Planning permission for the erection of a detached garage and new driveway from the main road was granted subject to conditions in June 2014. As approved the access would be in the south-west corner of the field; the new driveway would run northwards from the access parallel to the west boundary of the field before turning eastwards to follow the northern boundary under a belt of trees to reach the domestic curtilage of Fiveways. It was to be detailed to appear as an agricultural track, being tramlines of gritstone chert with a grass strip in the middle. The proposed track was considered to retain the open and undeveloped appearance of the site and to preserve the valued characteristics of the area. To avoid inappropriate domestication of the driveway and field through for example the introduction of lights or alternative surfacing materials, restrictions were imposed by conditions.
24. The permission has been implemented, however, the development is in breach of conditions imposed on the decision NP/DDD/1213/1149. This application seeks to vary conditions 2 and 3.
25. Condition 2 required the development to be in compliance with the amended plan, drawing number 26308 (02)06J.
26. As approved, the track was 3.7m wide with a grass strip of 1.5m between the 1.1m wide surfaced tramlines. It was to be surfaced with gritstone gravel. As constructed, the grassed strip was not created and it has been surfaced with limestone which is a less recessive colour than the approved materials. The access point to the highway has been block paved, which is a domestic feature inappropriate to the development.
27. The amendments proposed are to reduce the overall width of the track to 2.5m wide and the grass strip to 950mm wide. This means that the grass strip will be wider than the tramlines to either side, as is usual for an agricultural track. The reduction in the overall width is an enhancement of the previous approval, minimising the visual impact of the track. The grass strip is shown along the whole length of the track which is within the field, it stops at the boundary to the domestic curtilage. The amended plans repeat the specification of the surfacing materials as gritstone gravel. The access point to the road and the first 5m are proposed to be tarmac to provide a bound surface so that loose materials will not be deposited onto the highway. The use of tarmac will be unobtrusive and acceptable in this context as it will not have the same domestic

character as the block paving.

28. The proposed variation would not have a detrimental impact on the character and appearance of the site, setting, or the wider area. The proposal to amend the design is in accordance with policies GSP3, DMC3 and DMT3.
29. Condition 3 prohibited any lighting to avoid domestication of the track as well as to retain the character of the open grazing field. The proposed lights are four black bollards spaced along the northern boundary under the trees. They are proposed to be movement activated and remain on for two minutes from activation.
30. The northern boundary is formed by the very high retaining garden wall of The Maynard Arms Hotel. The proposed bollards are 740mm high and matt black and against the high boundary. They would not be visually intrusive and would be screened by the trees which line the other side of the track at this point. However, they do introduce a very domestic feature into the field which the access traverses which would have an adverse impact on the character of the site.
31. The proposal to retain the lighting is therefore considered to be contrary to policies GSP3 and DMC3, and condition 3 should remain on the decision.

Amenity Impact

32. The proposed amendments to the approved plans with regard to the track will not have a detrimental effect upon the character and appearance of the site and its wider setting. The proposal to vary condition 2 is in accordance with policies GSP3 and DMC3 in terms of its likely impact on the amenities of the area. However, condition 3 should be retained as the introduction of domestic lighting to the track does have an adverse impact on the character of the site.

Conclusion

33. The proposed variation of condition 2 is considered to be acceptable. The removal of condition 3 on NP/DDD/1213/1149 will have a detrimental effect on the character and appearance of the overall development, the site and its setting. As such the removal of condition 3 would have a negative impact on the amenities of the area.
34. It is therefore concluded that the application be approved subject to conditions, including the repetition of condition 3.

Human Rights

35. Any human rights issues have been considered and addressed in the preparation of this report.
36. List of Background Papers (not previously published)
37. Nil

Report author: Denise Hunt, Planning Assistant, 5 December 2019.