

DARLINGTON BOROUGH COUNCIL

APPEAL AGAINST REFUSAL FOR PLANNING PERMISSION

APPLICATION REF. NO: 23/00318/AUTH

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LOCATION: Land on the north-west side of Brickyard Farm Cottage, Neasham Road, Hurworth Moor, Darlington, DL2 1DL

DESCRIPTION: Appeal against an Enforcement Notice issued by Darlington Borough Council

APPLICANT: Mr William Porrett

PLANNING OFFICER: ANDREW HARKER

BRIEF SUMMARY:

1. An enforcement notice was issued by Darlington Borough Council. The breach of planning control as alleged in the notice was the unauthorised removal of approximately 25m of protected hedgerow, the installation of an authorised site access onto the land from Neasham Road, Hurworth, with the laying of hardcore materials to form an access road up to Brickyard Farm Cottage.

KEY POINTS TO NOTE:

2. The appeal site comprises two agricultural fields adjacent to Brickyard Farm Cottage. A new vehicular access track across the fields and gated entrance onto Neasham Road were carried out without the benefit of planning permission. The entrance onto Neasham Road did not include a safe level of visibility which meant that a retrospective planning application could not be supported, if one was submitted, and therefore the Council issued an Enforcement Notice.
3. The requirements of the notice were to (1) cease the use of the unauthorised access, (2) remove the unauthorised access road, gateway, fence posts and hardcore materials from the land, and (3) reinstate the land and hedgerow to its original condition immediately before the breach of planning control took place including, without prejudice to the generality of this requirement the removal of any rubbish and debris in connection with this unauthorised development and the closure of the access by replanting of the hedgerow adjacent to the highway. The periods for compliance with the respective requirements are (1) with immediate effect, (2) four weeks, and (3) six weeks.

4. The applicant appealed against the Notice on the grounds that planning permission should be granted for the works, that the entrance onto Neasham Road was not a breach of planning control and that the period for compliance with the Enforcement Notice was too short and should be extended to nine months.

REASON(S) FOR ISSUING THE ENFORCEMENT NOTICE:

5. The Enforcement Notice was issued as the development was considered to be prejudicial to highway safety by reason of the creation of an access for the associated traffic generation which does not include a safe level of visibility and the applicant had not provided any evidence to demonstrate that visibility standards in accordance with national guidance were achievable.
6. As part of the appeal process, the Council also considered that the removal of the hedgerow would have an adverse ecological and visual impact on the site and local area.

APPEAL DISMISSED:

7. The Planning Inspector agreed with the Council that the works which had been carried out were a breach of planning control. The Planning Inspector stated that ecological mitigation could be secured by planning conditions but the development would have an unacceptable impact on highway safety and also cause significant harm to the rural, green and undeveloped character of the area contrary to local development plan policies.
8. The Planning Inspector considered that there was no evidence to suggest that the four and six week compliance periods set out in the Enforcement Notice could not be achieved.
9. For these reasons, the planning appeal was dismissed, and the enforcement notice has been upheld with the following variation to the wording of Section 6) of the Notice:

'As to the step at paragraph 5(1) above: with immediate effect on the day this notice takes effect'.