

DELEGATED DECISION REPORT

HPK/2023/0418
Valid 30/10/2023

LAND OFF MARPLE ROAD
CHISWORTH

RETENTION OF ACCESS AND
TRACK

(FULL - MINOR)

MAIN ISSUES

- Principle
- Impact to Green Belt
- Design, Character and Appearance
- Highway Safety

DESCRIPTION OF SITE

The application site comprises approximately 150m long, narrow strip of land running north/south along the east boundary of this parcel of land, stretching from the main road, the A626 Glossop Road, becoming Marple Road to the east of junction with Woodseats Lane and Sandy Lane, to the paddock adjacent to Sanders Lane Farm off Sandy Lane. The boundary with the A626 is formed by a 1m post and wire fence set behind a low stone wall on a grassed verge.

The application site is part of land associated with High Ash House off Sandy Lane, along with the paddock/yard and the wider parcel of grazing land stretching between the paddock/yard and Glossop Road. It is understood that the site is partially used for equestrian purposes and the applicant owns a towed horsebox, a tractor and trailer.

As Glossop Road is a classified road (A626), the creation of an access would not be permitted under Schedule 2, Part 2 'Minor operations', Class B – 'means of access to a highway' within the Town and Country Planning (General Permitted Development) (England) Order 2015, regardless of any development that is potentially permitted under Part 6 'Agricultural and forestry' of this order. The site is within a 40 mph zone.

For the purpose of the Local Development Plan, the site falls within the open countryside, within the Green Belt and within the Dark Peak 'Settled Valley Pastures' Landscape Character Area.

PROPOSAL

The application seeks retrospective consent to retain the access onto the A624. The access comprises a 8m deep refuge before a field gate and the access track runs for approximately 140 beyond this across the field. There are two further field gates part way down the access track. The track comprising two tyre widths of road 'planings' with grass down the centre and the refuge area is also chippings.

The access as installed doesn't have any visibility splays and the submitted plans shows that it is intended to setback the existing fence line by 2.4m which would enable

a 70m visibility splay to the east and the 90m visibility splay to the west. The visibility splay to the east is in neighbours land and the supported statement states that the neighbours would be willing to set back their fence line.

The accompanying statement states that the purpose for the access '*The gate is only used to service the field, which currently involves removing one load of manure every two weeks, with a tractor and trailer. Outside of these times the gate will be padlocked for security. Each of the fields are sectioned off and gated in this way. All domestic trips will continue via Sandy Lane.*'

This is the second application seeking to retain the access the previous application was refused on the basis of inappropriate development in the Green Belt and highway safety concerns.

Following the receipt of DCC Highways comments, the applicant commissioned a speed survey which forms part of the revised submission.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

Policy S 1 Sustainable Development Principles
Policy S 1a Presumption in Favour of Sustainable Development
Policy S 5 Glossopdale Sub-area Strategy
Policy EQ 2 Landscape Character
Policy EQ 3 Rural Development
Policy EQ 4 Green Belt Development
Policy EQ 6 Design and Place Making
Policy CF 4 Open Space, Sports and Recreation Facilities
Policy CF 6 Accessibility and Transport

National Planning Policy Framework

Section 2 - Achieving sustainable development
Section 12 -Achieving well-designed places
Section 13 -Protecting Green Belt land

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2021/0552 - Retrospective application for a new safer access on to the A626 and a new track comprising two tyre widths of road planings with grass down the centre across the fields to the yard – Refused 21.04.2022

CONSULTATIONS

Publicity

Site Notice expiry date: 4.01.24

Neighbour consultation period ends: 04.01.24

Public Comments

None received

Town / Parish Comments

As there is no substantial change in the application since the previous application two years ago, HPK/2021/0552, our comments remain unchanged and are as follows.

Comments:

1. This application relates to High Peak Local Plan Policy EQ3 and EQ4, and requires planning permission. It should not be granted unless it is in accordance with national planning policy. In our opinion, a case has not been made in relation to national planning policy.

2. The existing access from Sandy Lane onto the track up to High Ash Barn remains adequate

and is in daily use by the applicant and his neighbours. The fact that the applicant now owns the land between the existing property and the main road is not a compelling reason to grant a new vehicle access point.

3. The A626 is 40 mph at the proposed entry point to this access. The main road is a major concern locally in terms of the sheer volume of traffic, a recent increase in heavy vehicles since the opening of the A6MARR and high average speeds by all classes of vehicles. High Peak Local Plan Policy CF6, Accessibility and Transport, states that there must be safe accommodation of traffic generated by the development. We believe that there will be considerable risk and safety concerns with traffic entering and exiting at this point.

4. The existing access road to the A626, Sandy Lane is a safe and low volume traffic entry point. The Sandy Lane junction is only 55 metres from the proposed access negating the need for the application.

5. There have already been instances where traffic has used the new 'lay by' (opening area for the new track) for turning round, driving into the opening and reversing back onto the main road to change direction.

This adds a further element of risk and safety concerns along a busy 40mph A road. We would be interested in Highways response, before their final decision.

Environmental Health

The application suggests that the road has been constructed with the use of road planings/scalpings. These are a recycled product and would normally be classed as "waste" unless they have been through a formal process, so they are no longer waste. As waste they are subject to waste regulation and cannot ordinarily be used in construction without a permit, license, or exemption.

The applicant needs to demonstrate that the material is not waste (or is exempt) and demonstrate that the material is suitable for use. The following should be submitted at application stage, as a minimum.

- Chemical test certificate to demonstrate the planings are not coal tar derived.

- Waste management licence or
- Waste management exemption

In the absence of this information it is recommended that the application is refused, as there is insufficient information presented.

Derbyshire County Council Highways

Original comments

The application includes a plan which indicates that emerging visibility splays of 2.4m x 90m and 2.4m x 70m are achievable in the westerly and easterly directions respectively from the access on to the A626 Glossop Road by setting back the boundary fences on either side of the access. However, Glossop Road is subject to a speed limit of 40 mph in the vicinity of the new access. Assuming vehicle approach speeds of 40 mph, the Y, or visibility distances, indicated on the submitted plan are below those recommended in the Manual for Streets guidance for a vehicle approach speed of 40 mph. For information, a stopping sight distance of 103m is recommended for a vehicle approach speed of 40 mph.

Also, both visibility splays indicated on the submitted plan are not all within land controlled by the applicant as identified on the blue line plan. It has been assessed that the maximum visibility achievable from the access in the westerly direction, within land controlled by the applicant, is some 65m only and the visibility splay in the easterly direction, again within controlled land, is nil, both being measured from a set back (X) distance of 2.4m. Therefore, it is considered that the new access suffers from severely substandard emerging visibility in both directions and is contrary to paragraphs 110 and 111 of the NPPF. It is therefore recommended that the application is refused on the following grounds:

The proposed access to the A626 Glossop Road, if permitted, would introduce traffic movements to and from the public highway at a point where emerging visibility is severely restricted due to the lack of a frontage verge or footway and the proximity of uncontrolled land to the access, thereby leading to potential danger and inconvenience to other highway users and interference with the safe and efficient movement of traffic on the adjoining highway contrary to paragraphs 110 and 111 of the NPPF.

If the applicant is willing to commission a speed survey to accurately determine vehicle approach speeds and the applicant can achieve the required splays, as informed by the results of the survey all within controlled land, the highway authority will reassess the application; however, as the applicant does not control the land to the east of the access, even if an appropriate visibility splay can be achieved to the east, the applicant will need the consent of the land owner, through a legal agreement, to set the fence back and maintain the frontage clear of any obstruction to allow visibility to be maintained.

If the application is refused the applicant will be required to reinstate the former fence and verge to its former state which will require the approval of Derbyshire County Council under S127 of the Highways Act 1980. It is requested that the following advisory note is attached to the decision notice for the applicant's information:

Pursuant to Section 127 of the Highways Act 1980, no work may commence within the limits of the public highway to close any redundant accesses and to reinstate the footway without the formal written Agreement of the County Council as Highway

Authority. It must be ensured that public transport services in the vicinity of the site are not adversely affected by the development works. Advice regarding the technical, legal, administrative and financial processes involved in Section 127 Agreements may be obtained by contacting this Authority via email – . The applicant is advised to allow approximately 12 weeks in any programme of works to obtain a Section 127 Agreement.

Revised comments – following receipt of traffic surveys

Based on the survey data I am satisfied that appropriate visibility splays can be achieved in both directions from the access. The submitted red line application plan will require revising and resubmitting to reflect the extends of the visibility splays in both directions which will then allow the required visibility splays to be conditioned accordingly.

If the applicant can revise the red line plan to reflect visibility splays of 2.4m x 53m in both directions and on receipt of the revised plan a final and formal response with recommended condition can be issued.

Coal Authority

The application site does fall within the defined Development High Risk Area; however, I can confirm that the nature of development is listed as exempt from Version 7, January 2023 of the Coal Authority's Guidance for Local Planning Authorities. Accordingly, there is no requirement under the risk-based approach that has been agreed with the LPA for a Coal Mining Risk Assessment to be submitted with any planning application or for the Coal Authority to be consulted on this proposal.

OFFICER COMMENTS

Principle of Development

This is the second application seeking to retain the access, the previous application was refused on the following grounds:

1. The development amounts to inappropriate development within the green belt, which by definition is harmful. The development reduces the openness of the green belt and conflicts with one of the purposes of including land within the green belt, namely that it fails to safeguard the countryside from encroachment. In the absence of any very special circumstances, the development fails to comply with Policy EQ4 of the High Peak Local Plan 2016 and Section 13 of the National Planning Policy Framework 2021.
2. By virtue of its location, scale, design and materials, the access and refuge area, both in its current form and as proposed, would have a significantly harmful, visual impact on the rural character of the area and is considered not to be sympathetic to the distinctive landscape character area. The creation of a 18m wide tarmac refuge area and the cutting back 81m of the existing frontage, would create an incongruous feature in a prominent location on Glossop Road. The development is therefore considered to be in conflict with Policies S1, EQ2, EQ3 and EQ6 of the High Peak Local Plan, the adopted Landscape Character Assessment

Supplementary Planning Document 2006 and Sections 12 and 15 of the National Planning Policy Framework 2021.

3. By virtue of its location and inadequate visibility splays, the vehicular access to Glossop Road (A626), would introduce traffic movements to and from the public highway at a point where visibility is severely restricted due to the available frontage to the public highway and lack of / narrow highway margin, thereby leading to danger and inconvenience to other highway users. The provision of a vehicular access with adequate visibility splays to the Highway Authority's minimum standards would involve the use of land, which as far as can be ascertained from the application drawings, lies outside the applicant's control. In this case therefore, the proposal is considered to conflict with Policies S1, EQ6 and CF6 of the High Peak Local Plan and Section 9 of the National Planning Policy Framework 2021

The main difference between this application and the previous application is that they have sought to increase the visibility splays in both directions (only 31m to the west and 50m to the east could be achieved previously) the current application states it can achieve 70m visibility splay to the east and the 90m visibility splay to the west. However, the visibility splays to the east can only be achieved by using neighbouring land, which the adjacent landowner allegedly agrees to. The second application has also been supplemented with additional material including a technical note by SCP Transportation Planning and a speed survey.

No details have been provided about the refuge area, it is currently covered in chippings, the previous application proposed to tarmac the refuge area. The previous plans, which were hand drawn seem to indicate a larger refuge area than has been installed which is reflected accurately in the current plans.

Under the High Peak Local Plan 2016 Policy S 1 'Sustainable Development Principles', expects all new development to make a positive contribution towards the sustainability of communities and to protecting, and where possible enhancing, the environment; and mitigating the process of climate change, within the Plan Area. This includes making effective use of land, buildings and existing infrastructure; taking account of the distinct Peak District character, landscape, townscape, roles and setting of different areas and settlements in the High Peak; and protecting and enhancing the natural and historic environment.

Policy S 2 'Settlement Hierarchy' includes the section 'Other Rural Areas' and states that 'In all other areas outside of the settlement boundary of settlements, including those villages, hamlets and isolated groups of buildings in the Green Belt and the Countryside which do not have a settlement boundary...will be strictly limited to that which has an essential need to be located in the countryside...'

Policy EQ 2 'Landscape Character' states that 'The Council will seek to protect, enhance and restore the landscape character of the Plan Area for its own intrinsic beauty and for its benefit to the economic, environmental and social well-being of the Plan Area'. This includes requiring that development has particular regard to maintaining the aesthetic and biodiversity qualities of natural and man-made features within the landscape; and requiring proposals to be informed by, and sympathetic to the distinctive landscape character areas.

Policy EQ 3 'Rural Development' states that 'Outside the settlement boundaries and sites allocated for development..., including the Green Belt, the Council will seek to ensure that new development is strictly controlled in order to protect the landscape's intrinsic character and distinctiveness, including the character, appearance and integrity of the historic and cultural environment...'. It continues 'This will be achieved by: ...Supporting equestrian development where it does not have an adverse impact upon the character and appearance of the area...' and 'Supporting proposals for agriculture and related development which help sustain existing agricultural enterprises, including small scale farm shops selling local produce, complementary farm diversification and new agricultural buildings that maintain the landscape quality and character of the countryside'.

Policy EQ 4 'Green Belt Development' states that 'The Council will seek to protect the Green Belt and maintain its openness and permanence' in accordance with national planning policy. Section 13 of the NPPF sets out National Policy for new development in the green belt. Paragraph 150 identifies other forms of development which may not be inappropriate in the green belt, provide it preserves its openness and does not conflict with the purposes of including land within the green belt. One such exception is b) engineering operations.

Green Belt considerations

The new access road, although comprising an engineering operation, would extend over an extensive area of land, some 140m in length with a large and engineered opening at its access point onto the A628. As set out in paragraph 155 of the NPPF, an engineering operation is only permissible in the green belt provided it preserves openness and does not conflict with the purposes of including land within it. Paragraph 143 of the NPPF sets out the five main purposes of the green belt:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

In this case, the access road would fail to comply with paragraph 143 c), in that it amounts to a large and extensive area of hard surfacing which fails to safeguard the countryside from encroachment. Previous to the works, which were undertaken to create the access road, the field was an undeveloped area of land as shown the photograph below:

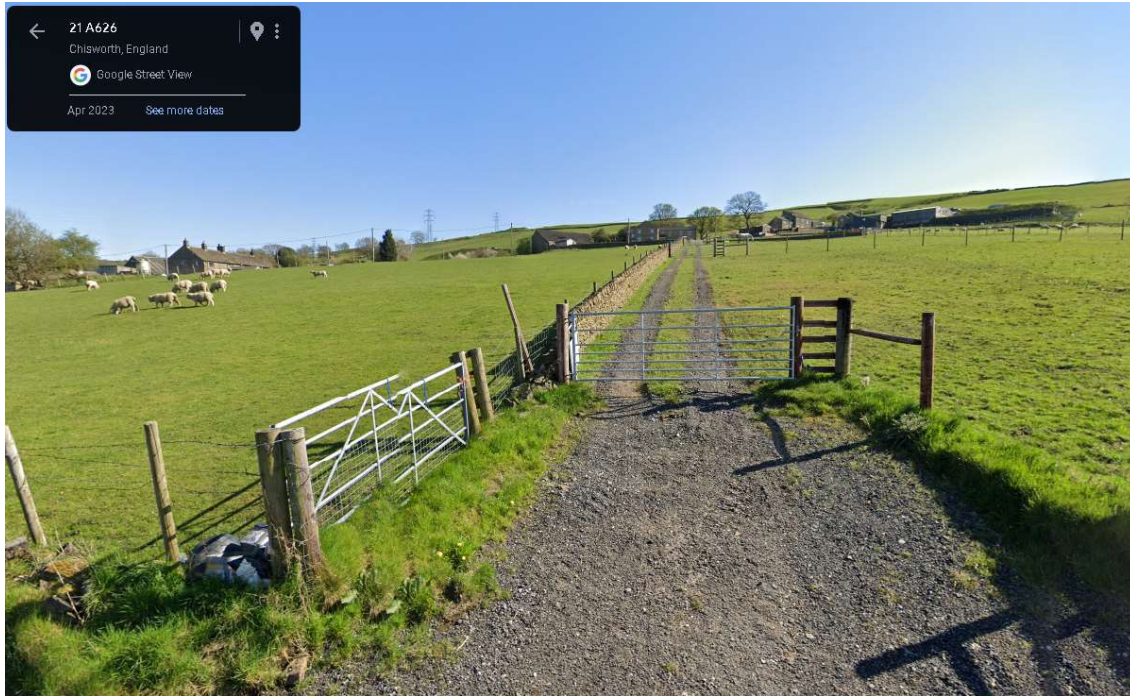


The google image below shows what the boundary with A626 used to look like in March 2021 before the access point, track and gates were installed.



The image below shows the access looks like in April 2023, it is not just the installation of the access track and refuge that have an impact it is the installation of gates along the track which added to the visual intrusion.

Moreover, the access will have a greater impact than the images currently show as visibility splays will need to be installed in each direction which will have a greater impact on the areas.



The new road has demonstrably introduced a urbanising feature into an otherwise undeveloped field which would result in encroachment and a loss of openness. Consequently, the development, as constructed amounts to inappropriate development in the green belt, which by definition, under paragraph 152, is harmful and should not be approved except in very special circumstances.

The applicant has not demonstrated that the proposed access is needed or provided any justification to demonstrate that very special circumstances exist for the access. As the Parish Council point out the applicant's currently have an existing access onto Sandy Lane which has low volumes of traffic and is only 55m away therefore there is no overwhelming need for the access.

Highway safety reasons have been cited as the existing Sandy Lane access is considered, by the applicant, to be unsafe due to one accident that occurred in March 2021. It is stated that the access will only be used once a fortnight. Whilst the applicant may be trying to present the case that the access will have a low level of usage, the planning authority would have no control over the intensity of use once the access was authorised.

Whether highway safety amounts to "very special circumstances" is discussed further below.

Impact on landscape

In the current application little has been said about the use of the land and the purpose of the access, aside from the technical note stating that is required for tractor and trailer to remove one load of manure every two weeks.

The previous application submission made reference to applicant keeping horses in the paddock/yard, grazing them in the parcel of land to the north between Glossop Road; whilst the access will support this use by making access for larger vehicles and trailers easier, it is not exclusive. As the previous officer report noted, there is no site history to confirm any wider equestrian use of the remaining site and the redline plan only indicates the access lane as the development area and the proposal does not include any change of use of the land, which remains as agricultural. An additional field gate is proposed off the proposed refuge area to allow access to the adjacent field to the east of the track; this field is understood not to be in the applicant's ownership and was clearly in use for grazing livestock at the time of visiting site.

The overall use of the site is not expressly clear, but with the absence of a formal confirmation via a lawful use certificate or planning permission, the existing use of the development land is taken as agricultural with the keeping/grazing of horses forming a private interest for the applicant. The adjacent field was clearly in use for grazing livestock at the time of visiting site.

Policy EQ 6 'Design and Place Making' states that 'All development should be well designed and of a high quality that responds positively to both its environment and the challenge of climate change, whilst also contributing to local distinctiveness and sense of place'. This policy continues 'Requiring development to be well designed to respect the character, identity and context of High Peak's townscapes and landscapes' and 'Requiring that development contributes positively to an area's character, history and identity in terms of scale, height, density, layout, appearance, materials, and the relationship to adjacent buildings and landscape features'.

Policy EQ2 sets out that the Council will seek to protect, enhance and restore the landscape character of the area for its own intrinsic beauty. This will be achieved by requiring that development proposals to be informed by, and sympathetic to the Landscape Character SPD. The site lies within the settled valleys landscape character area. The adopted SPD identifies this landscape as being one of pastoral landscape with isolated farmsteads or cottages and small groups of trees around settlements and farmsteads. The guidance advises that the impact of hard surfacing and other surfaces should be considered including the colour, brightness and reflectivity of the surface.

Policy EQ3 seeks to ensure that new development is strictly controlled to protect the landscape's intrinsic character and distinctiveness. This will be achieved by ensuring that all development is of high quality design and protects or enhances the landscape character of the area.

The proposal seeks to retain the access track to the A626, refuge area and gates and provide larger visibility splays by setting back the fence line.

The surrounding area is rural in character with this southern section of frontage facing Glossop Road being stock fencing with low height bushes and wild planting, and some traffic signage; opposite on the north side, the frontage is more formal hedging approx. 1.5m tall.

As the above images illustrate the access does have landscape impact and the need to install greater visibility splays which will also exacerbate its impact on the wider rural character of the countryside setting.

The proposal is considered to have a significant, harmful impact on the character and appearance of the property or the surrounding area. The development is therefore considered to be in conflict with Policies S1, EQ2 and EQ3 of the High Peak Local Plan and Section 12 and 15 of the National Planning Policy Framework.

Amenity

Policy EQ 6 ‘Design and Place Making’ requires that ‘...development achieves a satisfactory relationship to adjacent development and does not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse impacts on local character and amenity.

The proposal is considered unlikely to have a significant, harmful impact on the amenity of the neighbouring properties. The development is therefore considered to be in accordance with Policies S1, and EQ6, the guidance contained within the Residential Design SPD, High Peak Design Guide, and Section 12 of the National Planning Policy Framework.

Highway Safety

Policy EQ 6 ‘Design and Place Making’ requires that ‘...developments are easy to move through and around, incorporating well integrated car parking, pedestrian routes and, where appropriate, cycle routes and facilities’. Policy CF 6 ‘Accessibility and Transport’ states that development should not ‘lead to an increase in on street parking to the detriment of the free and safe flow of traffic’.

The highways officer objected to the original application, which resulted in a reason for refusal relating to highway safety and they originally objected to the current application on the basis of insufficient visibility splays.

Subsequently, the agent commissioned a speed survey. The speed survey was undertaken by SCP Transport between Sunday 14 January and 20 January 2024. The 85th percentile speed are set out below:

	85th % speeds
Sat	36.9
Sun	36.7
Mon	35.6
Tues	35.2
Weds	34.7
Thurs	34.6
Fri	35.3
Sat	35.7
	35.59

Transport consultant noted that there was some snow and ice on the Wednesday and Thursday, they removed Wednesday and Thursday from the results but this did not material change the overall average speed. On the basis of the survey the consultant confirm that Manual for Street visibility calculation the speeds would require a visibility distance of 53m.

The Highway Officer reviewed the speed survey and had no reason to challenge the validity of the data and confirmed that the visibility splays could be conditioned subject to a new plan being submitted.

However, the issue still remains that the eastern visibility splay lies in land outside of the applicant's ownership. The neighbouring landowner allegedly agrees to the realignment of the fence but no evidence has been presented with the application submission to demonstrate this commitment. Even if revised plans were received the implementation of the visibility splays retains in doubt at this stage.

The adequacy of visibility splays and highway safety is just one concern about the access, the overriding concern is the impact the development has on the green belt. The access is inappropriate development in the green belt and no very special circumstances exist to outweigh the harm to the green belt. The development would affect the openness of the green belt and fail to safeguard the countryside from encroachment. The substantial weight to be given to the harm to the green belt is not clearly outweighed by other considerations to demonstrate very special circumstances.

Other Matters

The EHO comments about the source of the planings is also noted. However, this did not form part of the reasons for refusal previously.

CONCLUSION / PLANNING BALANCE

For the reasons outlined above, the development is considered to conflict with the relevant policies contained in the High Peak Local Plan and the NPPF. As such the application is recommended for refusal.

OFFICER RECOMMENDATION : Refuse

Case Officer: Rosie Dinnen

Recommendation Date: 9.02.24

X 

Signed by: Ben Haywood

On behalf of High Peak Borough Council

