



Appeal Decision

Site visit made on 14 April 2021

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM IHBC

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 12 May 2021

Appeal Ref: APP/HGW/528

Raikes Farm, Great Habton, Malton YO17 6RX (Easting: 476325

Northing: 477752)

- The appeal is made under The Environment Act 1995, Section 97 and The Hedgerows Regulations 1997 (the Regulations), Regulation 9 against a Hedgerow Retention Notice (HRN).
 - The appeal is made by Mr Alex Green (Habton Farms) against Rydale District Council.
 - The Hedgerow Retention Notice (Ref: 1/2020) is dated 21 May 2020.
 - The Hedgerow Retention Notice indicates that the Council considers the hedgerow to be important under paragraph 5(a) Schedule 1, Part II of the Regulations and therefore worthy of retention.
 - The location of the hedgerow is shown on the plan accompanying the Hedgerow Retention Notice.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Regulations apply to hedgerows with a continuous length greater than or equal to 20 m. Any gap not exceeding 20 m is treated as part of the hedgerow under the Regulations, as are any established gateways. Consequently, the line of a hedge does not need to be unbroken in order for the hedgerow to qualify nor does it need to physically meet adjoining hedgerows when greater than 20 m.
3. I am satisfied that the Regulations apply in this instance because several sections of the original hedgerow, as shown in green Plan A, exceed 20 m in length. As these sections are separated either by an intersection or gap greater than 20 m, they fall to be considered as separate hedgerows for the purpose of the *Hedgerow Regulations 1997* (the Regulations), as set out in Appendix B of the *Hedgerow Regulations 1997: A Guide to the Law and Good Practice* (the Guidance).
4. Given the above, the consideration of the two isolated sections along the western boundary and the adjoining hedgerow along the southern boundary, as shown on Plan A, do not fall to be considered in this appeal as they are beyond the scope of the Regulations for the reasons given.

Main Issue

5. The main issue is whether the hedgerows should be regarded as important and, if so, whether there is sufficient justification for their removal.

Reasons

6. The appeal relates to several sections of hedgerow to the west of Kirby Misperton Lane, largely comprising a mixture of hawthorn and blackthorn with no understorey. They are evidently remnants of the same hedgerow and are indicative of a field boundary that previously enclosed a rectangular land parcel that abutted the adjacent road. These are now separated by substantial gaps that are largely devoid of woody species. Three of these sections exceed 20 m in length, with two of them forming the north-western corner of the former field enclosure (A & B). These sections include two gateways, one on the northern and another on the western section. The third section (C) forms part of the south-western corner and joins a short spur of less than 20 m which indicates the line of the southern boundary of the former field enclosure.
7. A hedgerow is deemed to be important if it has been present at a location for 30 years or more and satisfies at least one of the criteria listed in Schedule 1, Part II of the Regulations. These criteria either relate to archaeology and history **or** wildlife and landscape. In this particular instance, the Council has issued a Hedgerow Retention Notice (HRN) for historic reasons. This is because the remaining sections are indicative of a hedgerow that is recorded in documents suggesting that it was an integral part of a historic field system that pre-dates the Inclosure Acts. The Guide defines that this should be taken to mean any hedgerow present at a given location before 1845.
8. More specifically, the field boundary indicated by the three qualifying sections, as well as the shorter sections, are shown on an estate map of land belonging to William Fermor Esq which is dated between 1770-1790. The hedgerow is also recorded on a transcription of the Great Habton tithe map which is dated 1849 as well as an Ordnance Survey map that was published in 1854. These maps are held in the North Yorkshire County Record Office and extracts have been provided.
9. Whilst the last two sources do not unequivocally establish the presence of the hedgerow prior to 1845, I am satisfied that the estate map is sufficient to establish that the qualifying hedgerows are an integral part of a field system that pre-dates the Inclosure Acts and are important in accord with Regulation 5(a). Furthermore, I note that this evidence has not been disputed by the appellant nor has any substantiated evidence to the contrary been submitted.
10. The Regulations seek to retain hedgerows that are important and the circumstances of their removal need to be exceptional. In this particular instance, the main reason given for their removal is to make the land more manageable and productive. The appellant believes that this would enable the grazing of grass-fed livestock alongside a range of other Environmental Stewardship options.
11. However, the Guide indicates that the impact on a business would have to be extremely serious to justify the removal of important hedgerows. Whilst I acknowledge that their removal would undoubtedly make agricultural operations more convenient, I am not satisfied that their retention would have an extremely serious impact on the appellant's business on the basis of the evidence that is before me. Nor do I have any indication of why the retention of these hedgerows would specifically preclude the application of different Stewardship scheme options.

12. I acknowledge that there are a number of gaps that have resulted from past management and that a similar length of continuous hedging could be provided elsewhere on the holding. However, this does not alter its historical significance, mitigate its loss or lessen the importance attached to it by the Regulations. Consequently, such considerations are immaterial and are not determinative in an appeal against a HRN issued under paragraph 5(a) Schedule 1, Part II of the Regulations. I therefore find that there are insufficient grounds to justify the removal of the hedgerows.

Conclusion

13. Given the above and considering all other matters raised I conclude that the hedgerows are important and that there is insufficient reason to justify their removal. I hereby direct that the Notice be modified by substituting the plan attached to the Notice with the plan attached to this decision which identifies the sections of hedgerow to which the Notice applies. I also direct that the text of paragraph 2 of the Notice is modified by substituting the following text at the appropriate point:

Hedgerow No. 1 (Comprising sections A, B and C as annotated by a solid green line on the map attached to this Notice) runs north (parallel) to Kirby Misperton Lane until then running east towards Kirby Misperton Lane SE 476328 477804 on the map referenced below) to the south of Braygate St, Swinton, and furthermore, that the said stretches of hedgerow must be retained and that removal consisting of, or including any such work is hereby prohibited.

14. Subject to these amendments, the appeal is dismissed and the Notice is upheld.

Roger Catchpole

INSPECTOR



Plan A

This is the plan referred to in my decision dated: 12 May 2021

by **Roger Catchpole DipHort BSc(hons) PhD MCIEEM IHBC**

**Hedge at: Raikes Farm, Great Habton, Malton YO17 6RX (Easting: 476325
Northing: 477752)**

Reference: APP/HGW/528

Scale: Not to scale

