

Appeal Decisions

Site visit made on 23 January 2017

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 February 2017

Appeal A Ref: APP/M2270/W/16/3155360

Land south of The Stables, Broomhill Road, Royal Tunbridge Wells, Kent TN3 0TD

- 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 Markerstudy Group against the decision of Tunbridge Wells Borough Council.
 - The application Ref 15/509662/FULL, dated 20 November 2015, was refused by notice dated 8 April 2016.
 - The development proposed is described as 'construction of track link between land at Mill Farm and land at Cobblestone Mews (retrospective)'.
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Appeal B Ref: APP/M2270/W/16/3156518

Mill Farm, Broomhill Road, Royal Tunbridge Wells, Kent TN3 0TD

- 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 Markerstudy Group against the decision of Tunbridge Wells Borough Council.
 - The application Ref 15/509661/FULL, dated 20 November 2016, was refused by notice dated 8 April 2016.
 - The development proposed is described as 'creation of track linking the Salomons Estate and Mill Farm, including erection of gates and boundary fencing (part retrospective)'.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for the construction of a track link between land at Mill Farm and land at Cobblestone Mews at land south of The Stables, Broomhill Road, Royal Tunbridge Wells, Kent TN3 0TD in accordance with the terms of the application, Ref 15/509662/FULL, dated 20 November 2015, and the plans submitted with it.

Appeal B

2. The appeal is allowed and planning permission is granted for the creation of a track linking the Salomons Estate and Mill Farm, including the erection of gates and boundary fencing at Mill Farm, Broomhill Road, Royal Tunbridge Wells, Kent TN3 0TD in accordance with the terms of the application, Ref 15/509661/FULL, dated 20 November 2015, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: AP00.C Rev B - Location Plan;
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D05.1 - Public Footpath Crossover Showing Proposed Gates; D05.2 – Proposed Gates Elevations; D05.3 Rev A – Existing and Proposed Crossover Viewed from Mill Farm; and D05.4 – Proposed Sketches of Gates.

Procedural Matters

3. The curved, 55 metre long, access track subject to appeal A (track A) has been constructed and I have therefore determined this appeal as one concerning development that has been completed. The description of development used by both the appellant and the Council refer to the development being retrospective. The reference to retrospective is superfluous and I have not repeated it in my formal decision above.
4. The 15 metre long access track subject to appeal B (track B) has in part been constructed, albeit that the proposal subject to the appealed application would involve its width being reduced from 4.6 to 2.8 metres and the installation of gates. I have therefore determined this appeal as being for development which has been commenced, but not been completed. There is no need for me to include the term retrospective in the formal decision for appeal B.
5. Appeals A and B have been made by the same appellant and concern access tracks that have been constructed in close proximity to one another and form part of the network of accesses relating to Salomons House, Mill Farm and Cobblestone Mews. I have considered each of the development's on their own merits, however, to avoid duplication I have dealt with the two appeals together.

Main Issues

6. The main issues in respect of Appeals A and B are:
 - whether the development is inappropriate development within the Green Belt; and
 - the effect of the development on the character and appearance of the High Weald Area of Outstanding Natural Beauty (the AONB), with particular regard to the activity and movement of vehicles using the linking tracks.

Reasons

Whether inappropriate development in the Green Belt

7. Tracks A and B are both situated within the Green Belt where inappropriate development for the purposes of paragraph 87 of the National Planning Policy Framework (the Framework) is by definition harmful to the Green Belt. However, paragraphs 89 and 90 of the Framework identify a number of types of development which may be considered as being not inappropriate development within the Green Belt. In the context of the appeal developments I consider that the third bullet point under paragraph 89 (the extension or alteration of a building provided the addition is not disproportionate) and the second bullet point under paragraph 90 (engineering operations) are relevant to these appeals.
8. Core Policy 2 (CP2) of the Tunbridge Wells Borough Local Development Framework Core Strategy of 2010 (the Core Strategy) states that there will be

a general presumption against permitting inappropriate development that would not preserve the openness of the Green Belt. Policy CP2 goes on to state that any new development within the Green Belt should accord with national planning policy, which at the time of the Core Strategy's adoption was contained in PPG2, which has subsequently been cancelled with the Framework's publication. Saved Policy MGB1 of the Tunbridge Wells Borough Local Plan of 2006 (the Local Plan) identifies the types of development that may be considered as permissible exceptions within the Green Belt provided the openness of the area is 'preserved' and there is no conflict with the purposes of the land being included within the Green Belt. However, the Council acknowledges that there is some inconsistency between the exceptions identified under paragraphs 89 and 90 of the Framework and Policy MGB1, with for instance the latter only referring to the extension or alteration of dwellings rather than buildings in general, as is the case under paragraph 89.

9. Having regard to the provisions of paragraph 215 of the Framework and the inconsistency that there is between Policy MGB1 of the Local Plan and the Framework, I consider that for the purposes of determining appeals A and B greater weight should be attached to paragraphs 89 and 90 of the Framework than to Policy MGB1.
10. The formation of tracks A and B have involved engineering operations and for the purposes of paragraph 90 such operations can be considered as being not inappropriate provided the openness of the Green Belt is preserved and conflict does not arise with the purposes of including land within the Green Belt. The Council accepts that each linking track is of a scale and form that have preserved the openness of the Green Belt and I am similarly of that opinion. I further consider that these engineering operations have not given rise to conflict with the purposes of the land's inclusion in the Green Belt, ie those listed in paragraph 80 of the Framework. Accordingly tracks A and B are not inappropriate development for the purposes of paragraphs 87 and 90 of the Framework or criterion 4 of Policy MGB1 of the Local Plan.
11. In association with the formation of track B some boundary fencing has been installed and it is intended that gates will also be installed. Fencing and gates, as structures or erections, come within the definition of a building for the purposes of Section 336 of the Act and I am therefore of the opinion that the fencing and gates associated with track B amount to the construction of a new building for the purposes of paragraph 89 of the Framework. The fencing that has been installed appeared to be an extension to other fencing and I therefore consider it, together with the gates to be installed, has amounted to or will amount to the extension or alteration of a building for the purposes of paragraph 89. In relative terms the scale of the new fencing and the gates is or will be quite modest and I therefore consider that their presence has not or will not adversely affect the openness of the Green Belt. I therefore find that this aspect of the development not to be a disproportionate addition for the purposes of paragraph 89's third bullet point.
12. For the reasons given above I therefore conclude that neither track A nor B are inappropriate development for the purposes of paragraphs 87, 89 and 90 of the Framework and that there is no conflict with Policy CS2 of the Core Strategy or Policy MGB1 of the Local Plan.

Area of Outstanding Natural Beauty (AONB)

13. The tracks are in effect links between other more extensive tracks within the grounds of Salomons House, Mill Farm and Cobblestone Mews. Tracks A and B are short in length and only track B is visible within the public domain, given the north west to south east public right of way that is crossed by this access link. As both tracks are modest in scale and I consider that that they are compatible with the landscape quality of the AONB. That is because the track to the south of The Stables (track A) is essentially a ground level development that passes through a small field, while track B, as a link between Salomons House and Mill Farm/Cobblestone Mews, nestles amongst a belt of woodland and its formation has not resulted in the loss of trees.
14. The Council contends that the vehicular activity associated with the use of tracks A and B will 'fundamentally' change the character of the AONB. The Council is particularly concerned that the presence of tracks A and B has the potential to enable visitors to be ferried between the car parking area that immediately adjoins Mill Farm/Cobblestone Mews and Salomons House. However, the appellant has submitted that tracks A and B are intended to be used in association within the maintenance of the appellant's landholding and I consider that their use for that purpose will not contribute significantly to the generation of traffic within this part of the AONB.
15. In the absence of the tracks then maintenance or visitor traffic would have to use Broomhill Road, with the traffic associated with the arrival or departure of visitors already having to use Broomhill Road. I consider that any traffic generated by the maintenance of the appellant's landholding or by visitors to Salomons House using Broomhill Road would be more visible within the AONB, given that Broomhill Road is a public highway, than any vehicular use of the tracks. Whether maintenance or visitor vehicles use either Broomhill Road or tracks A or B, there will inevitably be vehicular activity within the AONB. I therefore consider the use of the tracks has no greater effect on the landscape quality or tranquillity of the AONB than would be the case if they did not exist and Broomhill Road had to be used alone.
16. I therefore conclude that neither appeal developments A or B has harmed the character or appearance of the AONB. I therefore find there to be no conflict with Policies 1, 4, 5 and 14 of the Core Strategy, Policies LBD1, EN1 and EN25 of the Local Plan and paragraph 109 of the Framework because, while the development is in the countryside, the landscape within the AONB, as an area of environmental importance, has been preserved, the public realm has been conserved and the intensity of the tracks' use is compatible with their surroundings

Other Matters

17. Salomons House and various buildings that adjoin it are listed buildings. However, track B is at a significant distance from the group of listed buildings and when that distance and the site's topography are taken into account, I consider that this track has had no effect on the setting of the heritage assets. I therefore find that the character and appearance of the listed buildings has been preserved.
18. It has been submitted that the use of tracks A and B is causing noise disturbance to residents in the area. However, as I have indicated above the

tracks of themselves are modest in scale and I do not consider that their presence is responsible for any noise disturbance that might have been experienced in association with the operation of any lawful or unlawful uses that are being undertaken or have been undertaken within the appellant's landholding.

Conditions

19. The Council has not suggested any conditions in the event of either appeal being allowed. As the development subject appeal A has been implemented in accordance with the submitted plans the imposition of conditions is unnecessary.
20. As the development concerning appeal B has been commenced there is no need for me to impose the standard implementation condition. For the purposes of certainty it is necessary for me to impose a condition requiring the development subject to appeal B to be implemented in accordance with the submitted plans.

Conclusion

21. For the reasons given above I conclude that appeals A and B should be allowed.

Grahame Gould

INSPECTOR