
Appeal Decision

Site visit made on 17 August 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 08 September 2017

Appeal Ref: APP/G1630/W/17/3174740

Chapel Farm, Walton Cardiff Lane, Tewkesbury GL20 7BL

- 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 Mr Joseph Muscat against the decision of Tewkesbury Borough Council.
 - The application Ref 17/00028/FUL, dated 11 January 2017, was refused by notice dated 9 March 2017.
 - The development proposed is change of use of land from agricultural use to domestic use, provision of vehicular driveway and alterations to vehicular access and associated landscaping and boundary treatments.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Joseph Muscat against Tewkesbury Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the rural landscape.

Reasons

4. Chapel Farm House is one of a small cluster of buildings in a rural location. To its immediate west is another dwelling and there is a large agricultural barn complex to the north. The buildings are surrounded by agricultural fields with open countryside and some scattered dwellings beyond. There is an existing vehicular access to the west and a further access to the north.
5. The proposal is to provide another vehicular access to the east. It would cross an agricultural field before reaching the public highway network, just north of Rylands Cottage. Whilst there is an existing farm gate adjacent to the road at that point which allows access to the wider farm, a post and rail fence separates the field over which the bulk of the new vehicular driveway would pass from that exit onto the road.
6. Although there are references to an existing mud track, when I visited, the main field over which the proposed driveway would run had a recently harvested crop up to its northern boundary hedge and fence, which separates it from paddocks to the north. Therefore, accepting that various agricultural

vehicles no doubt access the fields and create their own informal tracks on the land and may indeed use the field gate to the east, there did not appear to be a distinguishable established track along the alignment of the proposed route. Consequently, the proposal would create a new surfaced domestic driveway approximately 4.2 metres wide running for some 180 metres across open agricultural fields, albeit ultimately arriving at an existing access gate to the highway.

7. According to the appellant's plan, Ref 16:1770:L03A, there would be two entrances and gates to paddocks to the north, which would also presumably serve as passing spaces along the lengthy new track. I note, however, that they are not indicated on the Landscape Strategy plan, Ref 4028/DR/001, which suggests that there would be a new hedgerow running on the northern side of the track, apparently without interruption.
8. The Landscape Statement (LS), submitted by the appellant, seeks to address concerns expressed in a previous refused application for a similar scheme. Whilst further planting is proposed along the northern side of the vehicular driveway which would in time help to mitigate views from the accesses and the public right of way to the north, the driveway would still be visible through the two proposed entrance gates to the paddocks. Furthermore, it would not address the adverse visual impact of such a long, wide driveway viewed from the public highway to east. Therefore, I consider that the proposed measures would not sufficiently mitigate the overall adverse effect on the landscape.
9. The appellant argues that the length of the track is dictated by its distance from the road but that does not form a justification for the development or its length. It is suggested that the existing accesses to the north and west are almost as long. That may be, but they are existing established accesses and the route to the north links to a public right of way, signed as a 'restricted byway'. Again the fact that there are already other accesses would not, in my view, justify a further access if that proposal causes harm to the character and appearance of the countryside.
10. The LS cites the Gloucestershire Landscape Character Assessment (GLCA)¹ which classifies the area as 'Settled Unwooded Vale'. It identifies various key characteristics of that landscape such as '*mixed arable and pastoral land use enclosed by hedgerow network*'. The LS seeks to justify the proposal on the basis that the suggested mitigation, such as the introduction of a new length of hedgerow and hedgerow trees are consistent with the landscape character of the area. However, that mitigation would only be necessary because the proposal for a long, wide metalled driveway across agricultural fields, currently free of such development, would cause visual harm.
11. It is submitted in the LS and associated appeal documentation that because there are already other farm entrances and agricultural accesses in the locale, the proposal for another access would be characteristic of the area. However, whilst such accesses are necessary, the proposal is for a change of use from agricultural use to a domestic driveway. The proliferation of further metalled driveways over the countryside, especially when alternative accesses already exist in close proximity, would represent an adverse cumulative visual impact on the rural landscape. It would also introduce regular, albeit relatively limited, domestic vehicle movements across another part of the wider farm.

¹ January 2006

12. Much emphasis is placed by the appellant on the use of the existing gate to the east which currently gives access from the road to an agricultural field. Whilst the use of an existing access gate is a positive aspect, as the predominant character and appearance of the area is one of rural agricultural fields, introducing a domestic metalled driveway for a significant distance across an open field, currently used for growing crops, would be unsympathetic and have an adverse visual impact.
13. Saved policy LND4 of the Tewkesbury Borough Local Plan to 2011 (LP)² advises that, in considering proposals for development in rural areas, regard will be given to the need to protect the character and appearance of the rural landscape. The 'reasoned justification' for the policy, which can be used as an aid in its interpretation, says that development proposals in such rural areas should be designed to harmonise with their character or, if they are unacceptable intrusive, be refused. An engineered, surfaced metalled roadway over an agricultural field would, even taking into account mitigating planting, be visually intrusive and conflict with the policy.
14. Although the LP dates from 2006, paragraph 215 of the National Planning Policy Framework (the Framework)³ advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Policy LND4 is in accord with one of the core planning principles set out in paragraph 17 of the Framework. It says that planning should take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside. Therefore, I give policy LND4 significant weight.
15. The Council's decision notice also refers to policy SD7 of the emerging Joint Core Strategy Proposed Main Modifications Version (JCS). I note that that there were no major changes to policy SD7 in the latest version of the JCS. Therefore, given that it, like policy LND4 and the Framework, seeks to protect landscape character for its own intrinsic beauty, I give it weight although tempered by the fact the JCS is still emerging and the process of examination has yet to be formally completed.
16. With regard to the existing farm access gate to the east, the Highway Authority is satisfied that a safe access could be achieved with the provision of appropriate visibility splays, to be secured by condition. I also note that the Parish Council support that aspect. However, it appears agreed that the proposal would entail the removal of some parts of the existing hedgerow. The LS accepts that this would cause some harm but classifies it as 'minor' because it is over a relatively small area and would be subsequently mitigated by replacement hedgerow, once it had become fully established. Nevertheless, an adverse effect is acknowledged albeit that it would resolve in the longer term.
17. There are already clear views from the public highway at that eastern access point across fields towards Chapel Farm House. There are also other views from the public right of way to the north which, although filtered by vegetation, are likely to be enhanced during the winter months when the vegetation is likely to have thinned. In any case, the nature of the clear public views from the east would be changed fundamentally by the construction of a long, wide metalled domesticated driveway running from the road across the open fields.

² Adopted March 2006

³ Published March 2012

18. Although it is accepted that by its nature a driveway is a surface feature rather than a vertical form of development, an engineered driveway of the type and scale proposed would form a noticeable contrast to the existing vista of fields and paddocks stretching across a rural landscape towards the dwellings and buildings in the distance. The proposal would be unsympathetic and to the detriment of the countryside and would be seen in more than glimpsed views by walkers, cyclists, passengers in vehicles using the road to the east and from other public vantage points.
19. Whilst there are farm entrances and agricultural accesses in the locality, many of these such as the existing access to the field to the east are more sympathetic to the rural landscape, as they are often used by agricultural vehicles which may not require the same type of defined and metalled surfaces as private motor cars using domestic vehicular driveways. The extracts provided from the GLCA do not appear to suggest that such accesses are key features of the rural landscape. In any event, the existence of other agricultural accesses, does not justify the burgeoning of visually intrusive domestic accesses across open countryside which diminish its rural character and appearance.
20. The above factors lead me to conclude therefore, that the proposal would harm the character and appearance of the rural landscape. It follows that it would conflict with policy LND4 of the LP, policy SD7 of the emerging JCS and paragraph 17 of the Framework, which, amongst other things, seek to protect the character and appearance of rural landscapes.

Other Matters

21. Whilst the appellant refers to an ongoing civil dispute and flood risks associated with the existing access arrangements, the planning system is generally focussed on the wider public interest rather than personal circumstances, unless exceptional personal need can be demonstrated. Therefore, although I appreciate those concerns and have taken them into account, they do not outweigh the adverse effect of constructing a metalled track across open countryside which, in my judgement, would be in conflict with the development plan and the Framework.
22. The appellant says that improved visibility splays might, in any case, be required to the existing access to the field to the east. Whilst that may be a positive factor, there is no necessity for such improvements to that field access to be linked with the creation of a substantial metalled track across the adjoining fields. Therefore, it does not lead me to alter my decision.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR