
Appeal Decision

Site visit made on 29 August 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 8 September 2017

Appeal Ref: APP/H2265/W/17/3175307

Murrayfield, Taylors Lane, Trottiscliffe, West Malling ME19 5ES

- 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 Ian Murray against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/16/02230/FL, dated 20 July 2016, was refused by notice dated 9 November 2016.
 - The development proposed is the construction of a new access to the highway.
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Decision

1. The appeal is allowed and permission is granted for the construction of a new access to the highway at Murrayfield, Taylors Lane, Trottiscliffe, West Malling ME19 5ES, in accordance with the terms of the application, Ref TM/16/02230/FL, dated 20 July 2016, subject to the attached schedule of conditions.

Preliminary matter

2. Following the determination of the planning application the Council certified that the agricultural contractors yard which would be served by the proposed access was a lawful use of the land having been in operation for at least ten years¹. It is therefore now accepted that the new access would be required for the limited expansion of an existing authorised employment use and would therefore be an acceptable form of development in the countryside under Policy CP14 of the Tonbridge and Malling Core Strategy 2007 (TMCS). As a result the third reason for refusal has been withdrawn.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (NPPF) and development plan policy; and
 - the effect of the proposal on the character and appearance of the area, including its effect on the Kent Downs Area of Outstanding Natural Beauty (AONB).

¹ Ref TM/16/03728/LDE

Reasons

4. The proposal is the construction of a new vehicle access on the eastern side of Taylors Lane between Greenacres and The Lillies, two roadside bungalows to the north of the village of Trottiscliffe within the Metropolitan Green Belt and Kent Downs AONB. The access would serve an established agricultural contracting business which operates from a yard to the rear. At present the yard is accessed via an awkward, sharply curving driveway which passes in front of The Lillies.

Inappropriate development

5. The NPPF makes clear in paragraph 90 that engineering operations such as the construction of a new vehicle access are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.
6. Openness is an essential characteristic of the Green Belt and can essentially be regarded as the presence or otherwise of built form. In this case the proposal would not involve the construction of any building, walling or other raised structure. The new access would instead be created by cutting through and remodelling the existing roadside bank to establish a sloping driveway up to the existing entrance gate to the contractors yard. The works would involve a slight lowering of existing ground levels with the sides of the access comprising banked earthworks with timber sleepers or similar to keep the earthworks in place. Overall therefore the new access can be considered to have a neutral effect on the openness of the Green Belt.
7. Of the five purposes of the Green Belt listed in paragraph 80 of the NPPF only one, to safeguard the countryside from encroachment, might be relevant. However, highway access points are an integral feature of the countryside and do not therefore comprise a form of undesirable encroachment within it.
8. For these reasons the new access, an engineering operation, would preserve the openness of the Green Belt and would not conflict with any of the purposes of including land within it. The proposal would therefore not comprise inappropriate development in the Green Belt. Policy CP3 of the TMCS relating to the Green Belt merely adopts national policy in the NPPF.

Character and appearance

9. Taylors Lane is an attractive rural lane running up from Trottiscliffe towards the North Downs. It is narrow, gently winding, and at the top in the vicinity of the appeal site runs between banked hedgerows. However, on either side of the site are a series of residential properties set in large grounds which are accessed by a number of driveways through the roadside bank. Thus to the north Chaucers and Greenacres, and to the south The Lillies and Bassett Lodge, all have residential access drives off the lane.
10. In this context a further access drive, between those to Greenacres and The Lillies, albeit this time to an agricultural contractors yard, would not be unexpected nor out of character with the area. The existing access points punctuate the roadside bank and hedgerow and the new access would be very similar. Although the bank is about 1-1.5 m high where the proposed access would be cut through, the Council erroneously believe that this reflects the height of the land behind and thus the extent of the retaining banks needed on

each side of the new access. In fact the roadside bank at this point has been remodelled and artificially raised in height. The site is actually only perhaps about 0.5 m higher than the road, so the engineering works required to form the access and the retaining side banks would be considerably less than anticipated by the Council.

11. Consequently, whilst the proposal would involve a further cutting through the existing attractive roadside bank, once the works have become established, the visual impact would not be substantially different from the existing accesses in the vicinity. The access would not be excessively wide compared to the others and the spacing not excessively close. With the earthworks retained by unobtrusive timber sleepers or similar and with appropriate landscaping of the new access, both of which could be required by condition, the proposal would not significantly harm the character and appearance of the area.
12. The Kent Downs AONB, of which the area forms part, is a landscape designation of national importance and great weight should be given to conserving its landscape and scenic beauty. In this case as explained above the character and appearance of the area would not be significantly affected. It follows that the AONB would be conserved and the aims of its designation would not be compromised.
13. For these reasons the proposal would comply with Policies CP1, CP7 and CP24 of the TMCS and Policies SQ1 and DC6 of the Managing Development and the Environment DPD 2010. These seek to ensure development protects the countryside and natural beauty of the AONB, is well designed, of high quality, and conserves local character and distinctiveness including that of rural lanes.

Conditions

14. The Council put forward three conditions should the appeal be allowed and these have been assessed against the relevant tests. In addition to the standard implementation time limit, it is necessary to define the plans which have been approved in the interests of certainty. It is also necessary to control the materials to be used and to require a landscaping scheme and its maintenance in order to ensure the satisfactory appearance of the development. Finally, the highway authority have requested a condition to control certain details of the access in the interests of highway safety.

Conclusion

15. The proposal would not be inappropriate development in the Green Belt and would not harm the character and appearance of the area, thus conserving the landscape and scenic beauty of the Kent Downs AONB. It would improve the access arrangements for the existing agricultural contactors yard and thereby have highway safety benefits. The appeal should therefore be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 11575 H-01 rev P5, 11575 H-02 rev P4, 11575 H-04 rev P1.
- 3) No development shall take place until full details of the materials to be used for retaining the banks alongside the access have been submitted to, and approved in writing by, the local planning authority. The means of retaining the banks shall then be constructed strictly in accordance with the approved details.
- 4) No development shall take place until a scheme of hard and soft landscaping and boundary treatment has been submitted to and approved in writing by the local planning authority. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following completion of the development. Any trees or shrubs which are removed, die, become seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of a similar size and species, unless the local planning authority gives written consent to any variation.
- 5) The gradient of the access hereby permitted shall be no steeper than 1 in 10 for the first 1.5 m from the highway boundary and no steeper than 1 in 8 thereafter. In addition, the first 5 m of the access from the highway boundary shall have a bound surface. Suitable measures shall be taken to prevent the discharge of water onto the highway from the access once in place and to avoid mud and debris entering the highway during the period of construction.