The Planning Inspectorate

Appeal Decision

Site visit made on 3 June 2019

by Tim Crouch DipUD MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Monday, 08 July 2019

Appeal Ref: APP/C1435/W/19/3224928
Old Barn Farm, Michelham Priory Road, Upper Dicker BN27 7QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Messrs David/Alan Lambird/Hayward against Wealden District Council.
- The application Ref WD/2018/2099/OA is dated 17 October 2018.
- The application sought planning permission for demolition of redundant barn and erection of dwelling and garage without complying with conditions attached to planning permission Ref WD/2016/2732/O, dated 19 January 2017.
- The conditions in dispute are Nos 4 and 9 which state that:
  4. Prior to construction of the dwelling hereby approved the access track improvements to include widening as per drawing Access and Visibility Splays date stamped 17 November 2016 and raising pursuant to approved Flood Risk Assessment Submissions shall be implemented in full and thereafter retained.
  9. This planning decision relates solely to the information contained within the application form, the following plan(s) and (where appropriate) documents:

Ref.	*Date Stamped. STN4O*
Block Plan	*21 November 2016*
Site Plan 1:5000	*21 November 2016*
Site Plan	*21 November 2016*
Design and Access Statement Including	
Planning Statement	*21 November 2016*
Statement Flood Risk	*21 November 2016*
Access and visibility splays	*21 November 2016*

- The reasons given for the conditions are:
  4. To ensure a high standard of highway safety having regard to Saved Policy TR3 of the adopted Wealden Local Plan coupled with the requirements of paragraph 32 of the National Planning Policy Framework 2012.
  9. For the avoidance of doubt.

Decision

1. The appeal is dismissed.

Procedural Matters and Background

2. The application subject to this appeal seeks to make amendments to create a new vehicular access to a rural dwelling granted outline planning permission. This new access would be separated from the permitted route to avoid sharing with agricultural traffic. This therefore seeks to amend the condition relating to access track improvements (condition 4) and approved plans (condition 9).

3. The outline application permitted had access as the only matter to be considered in detail.

4. Following submission of the appeal, the Council has confirmed that if it had been in a position to determine the application, it would have refused planning permission. The Council set out two reasons for refusal; the lack of need for a second access and the impact on highway safety.

5. The Council's statement references policies within the emerging Wealden Local Plan (2019). These have yet to be examined and therefore I have given them limited weight in this case.

Main Issues

6. The main issues are therefore firstly, whether there is a justification for a second vehicular access given local and national planning policies and, secondly, the effect of the proposal on highway safety.

Reasons

Justification

7. The approved scheme for the new dwelling shows access to be provided via the existing agricultural track which serves the wider estate, before separating to serve the building to be replaced. This route is to be upgraded to allow better visibility, width and to reduce flood risk between the junction with Michelham Priory Road to the separation. The Council's analysis suggests the new dwelling is expected to result in 6 vehicle trips per day. The access road has a straight alignment from the junction to the separation of the two onward routes, with good visibility between these points across the field. This is proposed to be improved further with the widening permitted at the junction end to allow improved dimensions for waiting and passing.

8. The proposal lies within the Low Wealds countryside, an attractive low rolling rural character with open fields, wooded backdrops and limited intrusive development. Saved Policy GD2 of the adopted Wealden Local Plan (1998) (LP) resists development in such a countryside location, unless specifically identified as being suitable in the rural area, identifying that the protection and enhancement of the countryside is of paramount importance.

9. Saved Policy EN8 of the LP requires development to conserve this character, including having regard to unspoilt countryside and retention of characteristics such as boundary hedges. Policy SPO1 of the Wealdon Core Strategy (2013) (CS) seeks to protect distinct landscapes of the district. The approved plans allow for the removal of a number of natural features and will increase the prominence of the access track by widening it and as a result of the improvements to avoid flooding. The introduction of another linear access, running parallel and in relative close proximity given the scale of the open undulating field, engineered and raised would increase the impact of the proposal further, to the detriment of the character of the Low Wealds countryside.

10. The appellant seeks this additional access due to the risk of conflict between farm traffic and residential traffic. However, given the limited movements generated by the new dwelling, the good inter-visibility between vehicles at the junctions, and the permitted improvements to provide sufficient width for

passing at the entrance to the access route, I consider this risk to be limited. The introduction of a secondary access would be contrary to the countryside policies of restraint and landscape protection, and I consider this limited risk does not represent sufficient justification to warrant a departure from these policies in this case.

11. Whilst such a separation has been agreed elsewhere, I do not have the full details of the reasons for this, and the example brought to my attention appears to have a different context and constraints of access. In any event, I must determine this appeal on its own merits.

12. Therefore, I find that there is insufficient justification for a second vehicular access given local and national planning policies. Consequently, the proposal is contrary to saved policies GD2 and EN8 of the LP, Policy SPO1 of the CS, policies WLP4 and EA4 of the emerging Wealden Local Plan (2019) (eLP) and paragraphs 127 and 170 of the National Planning Policy Framework (2019) (the Framework). These require development, amongst other objectives, to conserve and enhance the natural environment.

Highway Safety

13. Michelham Priory Road is a rural country lane with a 60mph speed limit. The application to amend the permission includes a highway visibility report with speed survey. This seeks to record a more accurate measure of the vehicle speeds at the appeal site to inform the relevant visibility splays.

14. The radar speed survey was taken some distance (140 to 170 metres by the Council's measurements) to the west of the new access. This is partly around a bend from the site. Whilst this location would include a straight part of the road and pick up vehicle speeds as they left the bend, I am more persuaded by the Council's position that the resultant speeds cannot be considered accurately recorded to fully inform the visibility for the new access given this distance and bend in the road. This is especially case when the recorded speeds indicate that the 85th percentile speed of traffic is very close (0.5 mph according to the Council's analysis) to warranting an increased 160m visibility splay.

15. Therefore, whilst paragraph 109 of the Framework states that development should only be refused on highway grounds if the residual cumulative impacts on the road network would be severe, it also includes where there would be an unacceptable impact on highway safety. From the evidence before me, whilst the existing access is to be improved, it is not clear that the proposal to add a second route would meet this Framework requirement, or represent a satisfactory means of access to meet standards as required by saved Policy TR3 of the LP.

16. Consequently, the proposal would be contrary to saved Policy TR3 of the LP, Policy SPO12 of the CS, Policy INF4 of the eLP, and paragraphs 108 and 109 of the Framework.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

Tim Crouch

INSPECTOR