
Appeal Decision

Site visit made on 10 September 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 September 2019

Appeal Ref: APP/Y3940/W/19/3229097

Land at 1 Reeves Piece, Bratton BA13 4TH

- 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 Mrs L Pennington against the decision of Wiltshire Council.
 - The application Ref 18/11196/FUL, dated 26 November 2018, was refused by notice dated 6 February 2019.
 - The development proposed is erection of 1no. dwelling and creation of a new access and double garage.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of 1no. dwelling and creation of a new access and double garage at Land at 1 Reeves Piece, Bratton BA13 4TH in accordance with the terms of the application, Ref 18/11196/FUL, dated 26 November 2018, subject to the conditions in the schedule attached to the end of this decision.

Main Issue

2. The main issue is the effect of the development on highways safety, with particular regard to whether the development is capable of being served by safe access to the highway network, and its effect on other users of Millditch.

Reasons

3. The site is accessed via Millditch. This narrow lane is currently used as a means of vehicular access to a small number of dwellings and other land, and is not therefore heavily trafficked.
4. Between the site and the bifurcated junction of Millditch with Reeves Piece, Upper Garston Lane and The Butts (the junction), Millditch is sufficiently wide to accommodate vehicles, and has a reasonably intact, hard surface. Whilst Millditch narrows significantly towards the east, and the quality of its surface progressively deteriorates, this would not affect future access to the site.
5. Millditch falls into 2 main parts relevant to the appeal: a straight section running towards the south-east from the junction, and, after a roughly 90 degree bend, a shorter but similarly straight section which runs towards the north-east and the site. Despite the straightness of each section, and clear views this provides, the reasonably short distances covered, and the lack of forward visibility beyond the bend combine to naturally limit traffic speeds. This point is illustrated by survey data collected by the appellant which confirms that Millditch is very low speed environment.

6. Whilst narrow, Millditch widens near to the bend, and several broad, splayed accesses occur at various intervals along each section. Widening near to the bend is sufficient to allow a vehicle to pull in, and for 2 vehicles to therefore pass one another. Though the mouths of driveways are clearly not intended for public use, it appears likely that they are also used informally for this purpose. For these reasons ample scope also exists for pedestrians and other users of Millditch to stand in to avoid passing traffic.
7. Scope for pulling and standing in, combined with low levels of vehicular use, low vehicle speeds, and the reasonably clear line of sight along both sections of Millditch, reduces any scope for collisions to occur. Indeed, no evidence of past accidents has been provided. Millditch can therefore be considered to operate safely at present.
8. Visibility from the site access onto Millditch would be severely restricted. The fact that this would require drivers exiting the site to edge very cautiously onto the lane would not entirely remove the risk of collision with other users. Taking my findings above into account, this could however be reasonably addressed by the provision of a splay, similar to those serving other accesses along Millditch. The Council has indeed suggested a condition, which, with modification, could appropriately secure this.
9. For the above reasons, the very limited increase in vehicle movements along Millditch that would result from the development would be unlikely to cause any significant reduction in the safety or convenience of Millditch for its users, or indeed result in levels of additional conflict likely to be harmful.
10. Notwithstanding its character and established use by vehicles, Millditch is a public footpath, vehicular use of which is therefore restricted. Whether or not future occupants of the development would have a right of access along Millditch is however a private matter for consideration by the appellant. On this the parties agree, despite reference being made to the matter in the decision notice.
11. Interested parties draw attention to the increase in traffic along Upper Garston Lane and The Butts that would result from the development. However, as any additional vehicle movements along these lanes would be very limited in number, and no specific safety issues have been identified, it is again unlikely that any harm would arise.
12. For the reasons outlined above I conclude that the development would not have an adverse effect on highways safety. It would therefore comply with Core Policy 61 the Wiltshire Core Strategy 2015 (the CS) which amongst other things requires that developments are capable of being served by safe access to the highway network, and Core Policy 57 of CS, which amongst other things requires compliance with Core Policy 61.

Other Matters

13. The site is located outside the settlement boundary of Bratton. Thus the development would be contrary to Core Policies 1 and 2 of the CS, which set out the settlement strategy, and direct development to locations within defined settlements. The Council has however highlighted the proposed alteration of the settlement boundary, as is set out in the emerging Housing Sites Allocation Plan (the SAP). This would bring the site well within the settlement boundary.

Indeed, given the amount of development which exists beyond the current settlement boundary, and fact that the site clearly lies within the built-up area of Bratton, the change appears logical. As such, and with reference to the duty set out in section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended, I agree with the Council that the SAP is an important consideration which indicates that a decision other than one in accordance with the development plan, and Core Policies 1 and 2 in particular, is appropriate.

14. The site is located within Bratton Conservation Area (the Conservation Area). I have therefore given special attention to whether the development would preserve or enhance the character or appearance of the Conservation Area, and advice in the National Planning Policy Framework to give great weight to the conservation of heritage assets.
15. The significance of the Conservation Area appears to principally lie in the collection and layout of historic buildings along, and adjacent to the main routes through the village. Whilst narrow lanes including Millditch also provide interest, the immediate context is principally characterised by modern development. I have been provided with no indication that the garden space in question holds any significance in its own right. In this regard I agree with the Council's view that the development would not harm the significance of the Conservation Area. Subject to conditions covering aspects of detailed design, the character and appearance of the conservation area would be preserved.
16. Interested parties raise a number of additional concerns including potential land instability relating to required excavation, overlooking and overbearing. The Council does not share these concerns. Indeed, no evidence has been provided which indicates that the site or locality suffers from issues relating to instability which would be likely to cause problems in the event of excavation. Furthermore, the dwelling would be located a reasonable distance from houses in Reeves Piece, and set down, limiting its visual presence and any scope for overlooking. As such I see no reason to reach a different view.
17. Interested parties raise additional concern with regard to precedent. However, there appears to be little scope for similar developments to occur along Millditch. Even in the event that proposals did emerge however, they would require assessment with regard to their own planning merits.

Conditions

18. I have imposed conditions setting out the time limit for the commencement of development, and identifying the approved plans for sake of certainty.
19. I have imposed a condition requiring the agreement of external finishes and materials, but used a different wording to that proposed by the Council. As there is no necessity for the condition to be discharged prior to commencement, I have set a later trigger point. The condition is required in order to ensure that the development relates well to its setting within the Conservation Area.
20. The Council has suggested a number of conditions relating to the provision and surfacing of parking spaces, a scheme of drainage at the access, and clearance across the site frontage. As the conditions cover related topics I have combined them. Given that surfacing details are not provided on the plans I have made provision for agreement of these details within the condition. Also, rather than

requiring clearance across the site frontage to a depth of 2.4 metres from Millditch, I have required agreement of a visibility splay. This is because the provision of a functional splay would not appear to require clearance to the extent indicated. As such works will impact on the boundary I have additionally included a requirement to agree details of the boundary treatment within the condition. The condition is required in the interests of safe use of the site access, to ensure that the development can accommodate the demand for parking space that it will generate, and to ensure adequate drainage.

21. A condition requiring agreement of a construction management plan has also been requested by the Council. Whilst I acknowledge the existence of access constraints, and the fact that excavation would occur, given the small scale of the development the condition appears to be unnecessarily onerous. Additionally, it contains matters for approval such as wheel washing facilities which are unlikely to be relevant. As such I have not imposed the condition.

Conclusion

22. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Benjamin Webb

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. Unless otherwise modified by compliance with the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: 3014/01; 3014/02; 3014/03; 3014/04; 02; 03; 04.
3. No construction above damp-proof course level shall take place until details and samples of the materials and finishes to be used for the external surfaces of the dwelling and garage hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
4. No construction above damp-proof course level shall take place until design and construction details relating to the site access, parking and turning spaces within and serving the development hereby permitted have been submitted to and agreed in writing by the Local Planning Authority. These details shall include:
 - provision of a visibility splay at the site access, including associated levels and boundary treatments; and
 - a scheme of surfacing and drainage.

The site access, splays, parking and turning spaces shall be fully constructed in accordance with the approved details prior to the first occupation of the dwelling hereby permitted. The splay shall thereafter be maintained free from obstruction, and the parking spaces kept available for parking at all times.