



Appeal Decision

Site visit made on 7 September 2020

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Thursday, 08 October 2020

Appeal Ref: APP/F2605/W/20/3244319

Newtgate, Swanton Morley Road, Worthing, Hoe NR20 5HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant 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 Mr Teresa Lotis against the decision of Breckland District Council.
 - The application Ref:3PL/2019/1035/VAR, dated 20 August 2019, was refused by notice dated 6 January 2020.
 - The application sought planning permission for demolition of workshop building and erect dwelling without complying with a condition attached to planning permission Ref: 3PL/2016/1453/D, dated 7 April 2017.
 - The condition in dispute is No 7 which states that: Prior to the first occupation of the development hereby permitted the vehicular access shall be provided and thereafter retained at the positions shown on the approved plan in accordance with highway specification Dwg. No. TRAD 5 attached. Arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
 - The reason given for the condition is: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Planning permission has been granted for the erection of a dwelling. The appeal seeks permission to carry out the development without complying with Condition 7 (the Condition). This requires the permitted vehicular access to be provided and thereafter retained at the position shown on the approved plan and in accordance with highway specification drawing No. TRAD5 (the Drawing).
3. The appellant seeks to vary the material used in the construction of the vehicular access from the approved hardened surface, hot rolled asphalt (HRA) to loose bound gravel. This is on the basis that it is unreasonable to impose such a requirement as the material does not pose a risk to road users. In addition, other vehicular accesses to dwellings along Swanton Morley Road are not constructed to the Local Highway Authority specification.

Main Issue

4. The main issue is the effect of the proposal on highway safety.

Reasons

5. Among other things, the original permission required the formation of the vehicular access to be provided and retained thereafter in accordance with the Drawing. The Drawing specified in the Condition is one which applies to new residential access points, as is the case here. It requires a bonded surface, usually HRA where an access joins the highway. This is to prevent rutting of the highway verge and to prevent gravel spilling onto the highway or being carried by car tyres which would pose a hazard for road users from stone chips and skidding, particularly for cyclists and motorcyclists. It would also reduce traction for vehicles entering and exiting the appeal site. To my mind, the Condition is necessary and reasonable in the interests of highway safety.
6. The proposal seeks a variation of the Condition in order to retain the existing gravel surface. At the time of my site visit, I observed that there was a significant quantity of loose material already present within the highway at the position of the access with Newtgate. Similar deposits of loose material were evident within the highway close to vehicular access points to dwellings that are similarly constructed using loose bound material. It is possible that nearby farming activities may contribute further debris within the highway. Nonetheless, on the basis of my observations and the evidence before me, it would appear likely that the majority of loose material within the highway had been displaced from driveways constructed in loose bound material, including the appeal site.
7. Swanton Morley Road is subject to a speed limit of 30mph and it appeared to receive a relatively light flow of vehicular traffic. The LHAs evidence demonstrates that vehicles can typically travel at speeds in excess of the limit. This evidence is now of some age, however, there is nothing before me to suggest that this position has changed since the date of the LHAs traffic count/speed survey. In my view, the loose material poses a significant skid risk to both cyclists and motorcyclists, risk of injury or damage from airborne material and a slip and trip hazard to pedestrians walking within the carriageway due to an absence of a footpath.
8. No recorded incidents of injury or harm have been brought to my attention, however, this does not guarantee that this would not occur in the future.
9. Reference has been made to several other similar driveways within the area. Rather than providing justification for the use of loose bound material, it points to the need to control such materials in order to properly safeguard the safety of highway users.
10. The appellant has drawn my attention to the adverse environmental impact of the use of hardened surface material, however, this does not overcome the harm I have identified above. Whilst the use of HRA is not overly common along Swanton Morley Road, its use would not be at the detriment of the character and appearance of the area.
11. For the reasons given above, I find the Condition is reasonable and relevant to planning and to the development permitted. Therefore, the disputed Condition is necessary to safeguard highway safety as is required by Policies TR02 and COM01 of the Breckland Local Plan (2019). These policies require high quality development that provides safe, suitable and convenient access for all users and that does not compromise highway safety. In addition, paragraphs 108 and

109 of the National Planning Policy Framework (the Framework) seek to prevent development that would present an unacceptable impact on highway safety. The Condition also meets the other tests for conditions set out in the Framework.

Conclusion

12. For the reasons given above, I conclude that the appeal is dismissed.

E Brownless

INSPECTOR