
Appeal Decisions

Site visit made on 12 October 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2020

Appeal A Ref: APP/Y2810/W/20/3251946

Land at Kelmarsh Road, Arthingworth, Northamptonshire

- 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 Dr Dallas Burston against the decision of Daventry District Council.
 - The application Ref DA/2017/1199, dated 5 December 2017, was refused by notice dated 13 February 2020.
 - The development proposes the change of use of agricultural land to a cricket pitch, the erection of a cricket pavilion, the formation of a driveway, and alterations to the existing access.
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Appeal B Ref: APP/Y2810/W/20/3251960

Land at Kelmarsh Road, Arthingworth, Northamptonshire

- 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 Dr Dallas Burston against the decision of Daventry District Council.
 - The application Ref DA/2017/0745, dated 24 July 2017, was refused by notice dated 9 March 2020.
 - The development proposed is for an engineering operation comprising the laying of roadstone for agricultural purposes and installation of cattle grid.
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Decision

1. Appeal A is allowed, and planning permission is granted for the change of use of agricultural land to a cricket pitch, the erection of a cricket pavilion, the formation of a driveway and alterations to the existing access at Kelmarsh Road, Arthingworth, Northamptonshire, in accordance with the terms of application Ref DA/2017/1199 dated 5 December 2017, and subject to the conditions within the attached schedule.
2. Appeal B is allowed, and planning permission granted for the laying of roadstone for agricultural purposes and installation of a cattle grid at Kelmarsh Road, Arthingworth, Northamptonshire, in accordance with the terms of application Ref DA/2017/0745 dated 24 July 2017, and site plan A_1725 EX200.

Procedural matters

3. The two appeals relate to the same site and each other. I have considered each proposal on its own merits, but as they raise similar issues, I have dealt with them in a single decision letter.

4. The description of development for appeal A is different on the application form to that shown on the Council's decision notice. The revised description has been used by the appellant on the appeal form although he has indicated at section E that it has not changed. Nevertheless, for clarity I have adjusted the description in the banner heading to refer only to works that would constitute development.
5. The Council refused the proposal subject to appeal A as it would be in conflict with Saved Policy GN2 (B) of the Daventry District Local Plan 2007. This plan has now been superseded by the part 2 Settlements and Countryside Local Plan 2020 (LP) and therefore the saved policy is now of no weight.
6. In regard to appeal B, the red-lined site plan did not accord with my observations on site. The appellant has since provided a revised red-lined plan that now appears to reflect the observed location of the access. The submission of this plan has raised no objection from the Council. I shall therefore take the revised plan into account, which would not materially change the substance of the proposal and would not prejudice any party. Furthermore, I shall take into account that the access track and cattle grid have already been constructed.

Main Issue

7. The main issue in regard to both appeals A and B is the effect of the proposed track and access on highway safety, with particular regard to the performance of visibility splays.

Reasons

8. Kelmarsh Road is one of several routes into the village of Arthingworth. The access to serve both appeal proposals would connect to the highway a short distance beyond the last dwelling on the edge of the village. The access is within a wide grassed area that is around 6 metres deep and is enclosed to the rear with a combination of walls, gates and railings. Kelmarsh Road is subject to a 30mph speed restriction. This increases to the national speed limit just past the bridge to the south of the site.
9. Local to the access, the highway is flat without significant gradient change for some distance in either direction. The road is also comparatively straight in both directions but turns to the south beyond the bridge. The nearby bridge has parapet brick walls to its sides. From the position of the proposed access I observed that small cars were partially hidden behind the parapet when crossing the bridge. Conversely, larger vehicles were clearly visible above the parapet when passing this point. This therefore partially obstructs the visibility of vehicles from the viewpoint of vehicles that leave the site.

Consideration of appeal A

10. Appeal A relates to the change of use of the appeal site to a cricket pitch and associated works. The access would be used by attendees of the cricket pitch serving both players and spectators. The Transport Assessment (TA) describes a low-key activity and proposes parking for 20 vehicles on site. Estimated travel demand is set out in table 4 of the TA. This explains that with 75% of attendees arriving by car, a demand for 17 parking spaces would be created. This would result in 34 two-way movements. The findings of the Assessment have not been disputed by the Council and appears to reach a reasonable conclusion in regard to the anticipated traffic levels and parking demand.

11. Manual for Streets states that the effect of obstacles on visibility should be assessed in terms of their impact on the overall envelope of visibility. It also advises that obstacles that are not large enough to fully obscure a whole vehicle or pedestrian will not have a significant impact on road safety. The visibility splay annotated within the Transport Statement includes the southern parapet wall of the bridge within its field of vision. However, the obstruction is some distance from the access, and this would not obscure an entire vehicle. Furthermore, those vehicles that would be partly obscured would only be screened for a short period of time. Furthermore, although the Highway Authority has doubts as to the placement of the speed survey equipment, this matter is not determinative in this case. This is due to the nature and intensity of the proposed use, the extent of obstruction and the character of the highway.
12. Accordingly, for the above reasons the use of the proposed access and its visibility splay would not result in an unacceptable impact on the safety of users of the highway.

Consideration of appeal B

13. Appeal B seeks to retain the existing access track and cattle grid. The Council has not objected to the cattle grid. The dispute in regard to the safety of the access has been considered above. I have concluded that the proposed use of the access would not result in an adverse impact on highway safety. As a result, the proposed use of the access in regard to appeal B would not result in hazardous movements on or off the site.

Conclusion of both appeals A and B

14. Accordingly, the proposals in respect of appeals A and B would comply with the National Planning Policy Framework (The Framework) which seeks development to only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Conditions for appeal A

15. I have considered the use of conditions in line with the Planning Policy Guidance (The Guidance). This advises that conditions should be kept to a minimum and only used where they pass the 6 tests as set out by paragraph 55 of the Framework. I shall impose the Council's suggested conditions with some amendments for clarity. I have also conjoined two conditions relating to materials and soakaway details for simplicity.
16. The Highway Authority requested that the footway is extended from the end of the village and that the access be built to a commercial width standard. However, neither of these measures would be necessary due to the low intensity use of the proposal. As such, conditions requiring these measures would be neither reasonable nor necessary.
17. Conditions 4 and 7 require details prior to commencement of development of materials, drainage and bio-diversity mitigation. I consider these pre-commencement conditions to be so fundamental to the development that it would have been otherwise necessary to refuse permission. The appellant has agreed to the imposition of these, following formal notification under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

18. Subsequently, I have attached conditions which are recommended in the Guidance and are necessary in the interests of certainty [1 and 2]. I have also attached conditions that would protect the living conditions of existing residents [3, 5 and 6] and would mitigate the impact on protected species as required by the Wildlife Trust [7]. Details of surfacing are also required to ensure that the track would accord with the character and appearance of the area and satisfy highway safety matters [4]. Furthermore, Crime prevention measures are required to accord with the advice of the Council's Crime Prevention Design Advisor [8].

Other matters in regard to appeal A

19. The site is partially within flood zones 2 and 3. Photographs submitted in evidence illustrate that the site and surrounding area has flooded in the past. However, in accordance with the Guidance the proposal would be 'less vulnerable' to flooding and would therefore be appropriate in the flood zone. Furthermore, the proposal did not receive an objection from the Lead Local Flood Authority. Accordingly, due to the limited extent of development proposed the scheme would have a negligible effect on the function of the flood plain.
20. The site is within a Special Landscape Area. Policy ENV2 of the LP requires development within such areas to make a positive contribution to their special quality. The proposal associated with appeal B would have a negligible effect on the appearance of the local area due to its small scale. The proposal associated with appeal A would have the potential to have a greater impact due to its comparative scale. However, the pavilion would be sited close to the existing cluster of main buildings and the access track would have a low landscape impact. As a result, the proposal would complement the character and appearance of the area subject to materials being agreed by planning condition.
21. The nature of the use would be unlikely to generate substantive noise levels in terms of traffic or crowd/player noise. Furthermore, a condition limiting the hours of use of the access would ensure that nearby living conditions would not be adversely affected.
22. Due to its location the site could not be easily accessed by public transport. However, the nature of the proposed use and the evidence within the TA indicates that the activity would be reliant on users accessing the site principally by private car. This is therefore appropriate taking the needs of the activity into account.
23. I have also taken into account representations in regard to whether there is a need for a cricket pitch, but this matter does not affect my findings on the main issue.

Conclusion

24. For the above reasons both appeals are allowed, and planning permission granted.

Ben Plenty

INSPECTOR

Schedule of Conditions associated with appeal A

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan A_1725 EX100, Block Plan A_1725 PL100 and BURSTON LE168JT AMERSHAM 01
- 3) The access drive shall be used in connection with the agricultural use of the land, maintainance and the use of the cricket square and for no other purpose.
- 4) Prior to the commencement of development, details of materials and construction method including soakaways to be used in the construction of the access track shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented in accordance with the approved development.
- 5) No external lighting shall be installed on site.
- 6) There shall be no vehicular use of the access road on any day between 21.30 and 07.30 the following day.
- 7) Prior to the commencement of development an ecology phase 1 survey shall be submitted to and approved in writing by the Local Planning Authority. The recommendations of the survey shall be undertaken prior to the commencement of development.
- 8) Prior to the first use of the cricket pavillion, details of crime prevention measures shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in accordance with the approved details prior to its first use.

End of schedule