
Appeal Decision

Site visit made on 7 September 2022

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022.

Appeal Ref: APP/V0510/W/22/3292498

Hope Hall Stud, Brinkley Road, Dullingham CB8 9UW.

- 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 S Dudley (Amber Real Estates (Agriculture) Ltd) against the decision of East Cambridgeshire District Council.
 - The application Ref 20/01728/FUL dated 17 December 2020, was refused by notice dated 10 January 2022.
 - The development proposed is proposed new access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on highway safety along the lane to Dullingham Ley.

Reasons

3. The appeal proposal is located off the lane between Dullingham and Dullingham Ley. The lane is single track. Currently on the site of the appeal proposal there is a public right of way FP No 8 that connects the lane into Hope Hall Stud and beyond.
4. The main stud buildings and two substantial dwellings sit at a higher level on a bank above the lane. These buildings are currently accessed via the main access to the stud from Brinkley Lane and a legal agreement in the form of a S106 planning obligation was signed restricting access to that route.
5. The nature of the lane to Dullingham Ley is constrained in a number of respects. Not only is it single track but it is also unlit, has no footpaths and from my observations on site has broken verges in places. By its nature it is a lightly trafficked route (only 1 vehicle passed along it whilst I was on site). As such it is a popular recreational route for horseriders, dog walkers, runners etc.
6. The proposal is to create a vehicular access from the lane into the courtyard of the two houses on top of the bank with FP No 8 running along it. Were this the extent of the proposal and the development was purely to access the houses, the level of additional traffic from domestic use estimated at 8-12 car trips per day would probably have little impact in terms of highway safety on the lane. However, the courtyard serving the two houses has full vehicular access to the wider stud with gate piers currently set approximately 3 metres apart.

7. As things stand therefore with the new access completed access for a wide range of vehicles would be possible from the lane.
8. In order to resolve this matter the appellant has proposed to insert bollards between the gate piers which it has been put to me would restrict larger traffic such as horse boxes, HGVs etc accessing the stud via the lane.
9. I have two significant concerns regarding this aspect of the proposal. Firstly, the site of the proposed bollards is not within the redline boundary relating to the appeal proposal which only extends from the lane west as far as the eastern boundary of the courtyard. Therefore there would be no guarantee the bollards would be provided and no way for the Council to enforce their provision. Secondly, even if they were provided, the proposed spacing of the bollards would still leave a 2.1 metre gap which would be more than sufficient to allow the passage of pick-ups and other smaller commercial vehicles accessing the stud e.g. vets, suppliers and other businesses providing services to the stud. This would therefore potentially result in significantly more vehicles using the new access than just domestic vehicles relating to the two houses.
10. I have been referred to the fact that the S106 agreement has been recently relaxed to allow new access points to be constructed elsewhere onto the lane which the appellant argues justifies his proposal. However, I am not satisfied that these are comparable, because in those cases the access was purely to new residential properties; there was no connection to the stud.
11. I note that discussions have been held between the appellant and the Council to see if the bollards could be more closely spaced but the appellant's view is that if the house intended for the manager of the stud was occupied in that way there would be a need for the manager to access the stud by vehicle from the house at all times. I am not however wholly convinced by this argument as the main stud buildings are very close to the houses at less than 100 metres distance and, even if access to the wider stud was required, this could be achieved by quad bike, motorcycle etc that could fit between the bollards at the Council's proposed narrower spacing of 1.5 metres.
12. The current main access to the stud is much the safest route coming off a 'B' Class road with good sight lines and accessibility. I acknowledge that the appellant's drawings demonstrate that sight lines could largely be achieved along the lane and the swept path of an estate car could be accommodated. However, in addition to the adequacy of the new access, it would be the effect of a greater volume of traffic using the lane that would have the impact on highway safety particularly for recreational users.
13. I note that in the previous appeal decision (ref APP/V0510/A/11/2157285), seeking an alternative eastern access to the stud, the Inspector acknowledged that there may be the possibility of an alternative access. It has been put to me that this appeal proposal presents that alternative in separating out vehicular access to the two houses independent of the stud.
14. In principle the access, were it restricted to domestic use only, would be acceptable but without the closure of the route through to the stud the potential for an increase in inappropriate volumes and types of traffic using the lane cannot be controlled. The impact on highway safety would therefore be unacceptable.

15. I have considered whether a restrictive condition could be applied as suggested by the appellant but, as stated above, because the proposed location of the bollards is not within the application redline boundary such a condition could not be enforced and would therefore fail the tests for conditions. As things stand, even supposing I agreed that a spacing of 2.1 metres would restrict most of the larger traffic that would give rise to highway safety problems on the lane, provision of any bollards and their retention could not be guaranteed nor enforced.
16. The proposal is not equine development as such. However, as it could accommodate traffic to the stud under the present proposals it is reasonable to consider it in terms of *East Cambridgeshire Local Plan* (ECLP) Policy EMP5 which seeks to control equine development and amongst other things requires that the proposal should not have an adverse impact in terms of the nature and amount of traffic generated. In any event, even if it is not considered under that Policy, the proposal would conflict with ECLP Policy COM7 which requires the access provision to be capable of accommodating the level/type of traffic generated without detriment to the local highway network and the amenity, character or appearance of the locality. For the reasons above the appeal proposal would not achieve this policy objective.

Conclusion

17. The restriction preventing access to the stud from the lane was imposed through the S106 for highway safety reasons. I am not persuaded that anything has fundamentally changed in this regard. Whilst I note the appellant's point that there have been difficulties letting the stud due to the amount of traffic passing through the stud I am not persuaded that an alternative does not exist that would resolve this issue without posing problems for highway safety as a result of non-domestic traffic using the lane.
18. In reaching my decision I have had regard to the matters before me and for the reasons above the appeal is dismissed.

P. D. Biggers

INSPECTOR