



Appeal Decision

Site visit made on 22 November 2022

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/L3625/W/21/3285868

Ladyland Farm, Meath Green Lane, Horley RH6 8JA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 6, Class A of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr and Mrs P Samouel C/o White and Sons against the decision of Reigate and Banstead Borough Council.
 - The application Ref 21/02059/AGD, dated 27 July 2021, was refused by notice dated 23 August 2021.
 - The development proposed is a new road. 180.0 m in length, 6.0 m. in width. Natural chalk surface over hardcore base/type 3 aggregate (within RPA).
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Decision

1. The appeal is dismissed.

Applications for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Main Issue

3. The main issue is whether the development is permitted under the above Order.

Reasons

4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) Article 3(1) and Schedule 2, Part 6, Class A, the construction of a private way necessary for the purposes of agriculture is permitted development subject to conditions. Paragraph A.2(2)(b)(i) requires the developer to apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to the siting and means of construction of the private way. The Council issued a decision on 23 August 2021 stating that prior approval for the development was required for further consideration of the impact of the siting of the access where it meets Meath Green Lane.
5. Under GPDO Schedule 2, Part 2, Class B state access to a highway required in connection with development permitted by any Class in the Schedule is also permitted development. The access subject to the appeal proposal is included in the red line boundary forming part of the proposed development under consideration, and as such would be required as part of the construction of the private way which is necessary for the purposes of agriculture.

6. Under Paragraph A.2(2)(b)(iv)(aa) the applicant is required to display a site notice on or near the land on which the proposed development is to be carried out, leaving the notice in position for not less than 21 days in the period of 28 days from the date on which the Local Planning Authority gave the notice to the applicant. There is no evidence before me that shows that such consultation was undertaken by the appellant. The appellant has therefore not demonstrated that the provisions of the GPDO have been undertaken.
7. Whilst it is acknowledged that neighbour and other consultee consultations have been carried out by the Council, this nevertheless does not account for anyone else other than those neighbours and consultees who may have reasonably needed to be informed. It follows that as the relevant publicity requirements have not been carried out, and prejudice could arise from non-compliance as a procedural step was not fulfilled with following the Local Planning Authority decision that prior approval was required.
8. I therefore conclude that the proposed agricultural development is not permitted under Schedule 2, Part 6, Class A of the above Order. It follows that as lawful permitted development has not been established for the private way the proposed access would not be permitted under Schedule 2, Part 2, Class B of the Order is also not deemed as lawful permitted development. As the proposal does not constitute permitted development, I have no need to consider the siting and means of construction of the private way any further.

Conclusion

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

Robert Naylor

INSPECTOR