



Appeal Decision

Site visit made on 13 February 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2023

Appeal Ref: APP/K0425/D/22/3305612

7 Abbotswood, Speen, PRINCES RISBOROUGH HP27 0SR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr & Mrs D Hearne against the decision of Buckinghamshire Council - West Area (Wycombe).
 - The application Ref 22/05717/VCDN, dated 23 January 2022, was refused by notice dated 22 June 2022.
 - The application sought planning permission for a driveway egress without complying with a condition attached to planning permission Ref 21/06038/FUL, dated 18 June 2021.
 - The condition in dispute is No 2 which states that: *'The material to be used for the new hardstanding/driveway shall be of a similar colour and type as that used in the existing and neighbouring driveways, unless the Local Planning Authority otherwise first agrees in writing'*.
 - The reason given for the condition is: *'To retain the character of the external appearance'*.
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Decision

1. The appeal is allowed, and planning permission is granted for the installation of a driveway egress at 7 Abbotswood, Princes Risborough HP27 0SR in accordance with the terms of the application, Ref 22/05717/VCDN, dated 15 March 2022 and plan reference DH/05/21, without complying with conditions set out in planning permission Ref 21/06038/FUL, granted on 18 June 2021.

Preliminary Matters

2. The extended driveway has already been installed incorporating black tarmac. As the condition in dispute relates to the materials used in the construction of the driveway, I shall consider this appeal under section 73A in relation to development already carried out.
3. A similar driveway was approved on site by appeal in 2001¹.

Main Issue

4. The main issue is whether the disputed condition is necessary and reasonable to protect the character of the area, including the Chilterns Area of Outstanding Natural Beauty (AONB).

¹ Planning Appeal Reference: APP/K0425/A/01/1068766

Reasons

5. Abbotswood consists of around twenty large, detached dwellings within a suburban cul-de-sac setting. The appeal dwelling is set back from the highway and served by two accesses with a driveway that loops through the frontage. The original access driveway is red tarmac and the recently installed driveway is black. Neighbouring driveways within the cul-de-sac consist of a variety of driveway types, which include red and black tarmac and red brick pavements.
6. The driveways of around half of the existing plots appear to have a red tarmac finish. However, over time this colour has faded to a point where it is not a pronounced feature. This limited effect has been further eroded by a number of plots within the cul-de-sac that have removed and replaced this original finish with alternatives. As such, the colour and type of driveways within the estate is varied, with no consistent pattern and make a neutral contribution to the character of the area.
7. As a result, the black tarmac driveway, the subject of this appeal, is unobtrusive and integrates well with the visual tones evident within the existing estate. I am also cognisant that the previous Inspector found that the driveway would be consistent with the local character and did not identify that the local driveways had important colour characteristics. As a result, it is unnecessary for the installed driveway to consist of red tarmac despite recognising that this would match the existing driveway on site and some neighbouring driveways. The black tarmac integrates well with the streetscene and complements the appeal dwelling and the wider estate, within the Chilterns AONB.
8. Condition 2 is therefore not required nor would an amended version of the text, requiring it to consist of black tarmac, as the work is complete. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect. Due its retrospective nature, the three further conditions pertaining to implementation period, approved plans and required gradient, would no longer be necessary and have not been reimposed.
9. For the above reasons, the appeal is allowed, and planning permission is granted.

Ben Plenty

INSPECTOR