



Appeal Decision

Site visit made on 27 February 2023

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 21st March 2023

Appeal Ref: APP/Z3825/D/22/3310861

Iron Stone Barn, Rock Road, Washington, West Sussex RH20 3BQ

- 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 Mark Ellis against the decision of Horsham District Council.
 - The application Ref DC/22/0519, dated 10 March 2022, was refused by notice dated 31 August 2022.
 - The development proposed is creation of new vehicular access to existing residential property and installation of a gate.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The original description of the development was amended during the course of the application to include the installation of the gate.
3. The appellant submitted an Arboricultural Appeal Statement (the AAS). Although the appeal is being considered under the Part 1 procedure (as a Householder Appeal) in this case, in the interests of fairness and as provided for in the Regulations¹, the Council was given the opportunity to comment. I have seen no response.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area taking particular account of the effect on a lime tree and hedgerow.

Reasons

5. The appeal property is a dwelling set back from Rock Road. Its access onto Rock Road is shared with Rock Place Farm. There is a ninety degrees offshoot from the shared access leading into the shingle surfaced parking area of Iron Stone Barn. This is retained by low timber sleeper walls and separated from the remainder of the access to Rock Place Farm by a beech hedge within a slightly raised bed. The bell mouth of the shared access is hard surfaced and the remainder is shingle.
6. The protected lime tree², stands on the edge of the shared access between the offshoot and the carriageway. It is a mature and attractive individual specimen, one of several similar trees along Rock Road. As is typical for lime trees it has

¹ Regulation 8 of the Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009 (Statutory Instrument 2009/452) as amended

² Tree Preservation Order TPO/1385

extensive shoots on the lower trunk. These have been trimmed back. The trunk bifurcates into two principal stems at around 3m; the condition of the main fork appears generally sound. The upper crown has re-established after previous reduction. Some deadwood is present but this is not untypical and the form and structure of the tree appear typical for the age and species.

7. The canopy of the lime tree extends over the Rock Road carriageway; the shared access; the shingled parking area; and the offshoot. Aside from a very restricted area around the base of the stem the only unsurfaced area beneath the canopy appears to be the grass verge.
8. The proposal would create an independent access across the grass verge at the front of the appeal site close to the lime tree. A gate would be set back 6m to allow vehicles to wait off the live carriageway. The Design and Access Statement identifies that the access would serve a 14 foot (4.3m) wide gate and the submitted gate detail also shows a short section of fence to either side. The submitted layout plan contains few stated dimensions but shows that most of the access would be as wide as/wider than the proposed gate/fences.
9. Paragraph 1.3.3 of the AAS states the proposed access would be around 3.5m wide. There would also be a 5m radii on the east corner. No detailed plans accompanied the AAS: reference is made to site notes, sketch plan and photographs but these do not appear to have been submitted with the appeal. Given the above apparent inconsistencies I cannot be confident that the extent of works in the root protection area (RPA), or the compaction effect that might occur from vehicle use, has been fully explored.
10. The intention is that the access would be constructed, as far as possible, above existing ground level using a Cellweb system to maintain the appearance of the existing grass verge, and to minimise excavations within the root RPA of the lime tree. However, no site specific cross sections showing the level of detail that might be expected when proposing works close to a protected tree have been provided. Moreover, the accuracy of the plan in relation to the tree was queried by the Highway Authority.
11. Accordingly I cannot be confident that tree roots would not be compromised, whether or not kerb stones would be required, particularly given that I observed a substantial, partially exposed, tree root in the verge. In addition the proposed access would be in very close proximity to the stem of the tree in a part of the RPA likely to be most sensitive to works. Nor have I seen proposals for compensatory contiguous RPA or mitigation measures to improve the soil environment as envisaged by BS 5837:2012³.
12. Most of the frontage of Iron Stone Barn has a post and rail fence on the verge side of which is a row of small beech hedge plants which appear to have been planted at the request of the Council. This adjoins a more established hedge on one side and the lime tree on the other. The proposals would require the removal of some hedgerow but the plans do not clearly show the extent of removal that would be required.
13. Although the hedge is of no special historic value it adds to the verdant character and appearance of the area. Its loss would open up views of the parking area which would be harmful to the local leafy rural character and

³ BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations

appearance. This could potentially be ameliorated to some extent by a replacement hedge. However, the plans do not show how this could be successfully accommodated.

14. On the basis of the evidence before me I cannot confidently conclude that the effect on the protected lime tree and the hedgerow, and consequently on the character and appearance of the area, would not be harmful. Accordingly the proposal would not amount to high quality design. There would be conflict with those principles of Policies 25, 32 and 33 of the Horsham District Planning Framework 2015 (the HDPF) and the National Planning Policy Framework that seek high quality design that protects and enhances local landscapes and natural features such as trees and hedges. Although not mentioned in the reasons for refusal there would also be conflict with the similar Policy 15 in the Storrington, Sullington & Washington Neighbourhood Plan 2019 (the NP).

Other Matters

15. The Council refused permission for a similar access DC/09/0128 on highway safety grounds only. However, at that time it seems there were alternative access arrangements and there appears not to have been the existing offshoot. Accordingly the effect on the tree RPA of that access is likely to have been less than would be the case of the proposal before me. Moreover, the tree is now older and may respond less successfully to changes in conditions.
16. The proposed access would be more convenient for drivers than the existing awkward offshoot which, it appears, cannot be improved. It would minimise the waiting of vehicles turning into the shared drive when another vehicle was exiting. On the other hand, the proposed access would be in close proximity to the existing, which could cause some confusion for other users of the highway. These matters balance each other out. Despite concerns raised by third parties, the highway authority raises no objections on highway safety grounds. I find no compelling evidence that would lead me to a different conclusion.
17. Rock Place Farm is a Grade II Listed Building. There is intervisibility between the appeal site and Rock Place Farm, so the former is within the setting of the Listed Building. However, the proposed access and gate would be some distance from the Listed Building and the proposal would have a neutral effect on the setting in which its historic architectural merit is appreciated.
18. The proposed access in itself would not alter the water requirements of the appeal site and there is no compelling indication that it would lead to a more intensive occupation of the dwelling necessitating an increased consumption of water. In any event given my conclusion on the main issue I do not need to further consider the effect on the Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites.

Conclusion

19. The default position of BS 5837:2012 is that works take place outside RPAs although it is recognised that, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree. For the reasons set out above I cannot be confident that the technical solution proposed would prevent damage to the tree. Moreover, I conclude that the benefits of more convenient access for the appellant would

not constitute an overriding justification for works in the affected part of the RPA.

20. I conclude the benefits of an independent access would not outweigh the harm to the tree and to the character and appearance of the area. In failing to fully comply with Policies 25, 32 and 33 of the HDPF and Policy 15 of the NP the proposal cannot be said to comply with the development plan as a whole. I find insufficient material considerations to justify a decision other than in accordance with the development plan. The appeal should be dismissed.

S Harley

INSPECTOR