



Appeal Decision

Site visit made on 22 February 2023

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2023

Appeal Ref: APP/X1545/W/22/3308499

Oak Nursery, Hackmans Lane, Purleigh, Essex CM3 6RJ

- 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 P Coverley against the decision of Maldon District Council.
 - The application Ref FUL/MAL/22/00844 dated 18 July 2022, was refused by notice dated 14 September 2022.
 - The development proposed is new access and driveway from Hackmans Lane to existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new access and driveway from Hackmans Lane to existing dwelling at Oak Nursery, Hackmans Lane, Purleigh, Essex CM3 6RJ in accordance with the terms of the application, Ref FUL/MAL/22/00844 dated 18 July 2022, and subject to the conditions at Schedule A.

Main Issue

2. The main issue in this case is the effect of creating the access and driveway on the character and appearance of Hackmans Lane and its rural setting.

Reasons

3. The land the subject of this appeal lies on the south-west side of Hackmans Lane, a rural lane but one that is busy with traffic. The immediate context to the appeal site is a horticultural nursery within which a single storey dwelling house (converted from a former potting shed building) is sited just off Hackmans Lane and currently accessed through the nursery. The appeal site lying between the dwelling and Hackmans Lane is partially screened from open agricultural land to the south-east by a mature laurel hedge and to Hackmans Lane by a hedgerow and trees of indigenous species. Adjacent to the dwelling and the appeal site there are currently two large polytunnels. The previously approved scheme for the conversion of the building which the proposed access and parking will serve (Ref 16/00080/COUPA) shows these polytunnels removed.
4. The appeal proposal is a resubmission of a previous application for an access and driveway, (ref 21/00312/FUL), which was refused. The resubmission in relocating the proposed access would resolve earlier highway concerns.
5. At the time of my visit it was clear that the original hedging bounding the highway and within the proposed visibility splay had been removed, with the exception of one tree, and a new hedge of hawthorn whips planted behind the visibility splay line.

6. Whilst removal of the hedgerow prior to receiving consent was regrettable it was clear from my site visit that no further removal of hedging or the remaining tree would be necessary to achieve the necessary sightlines for the access. The removal of the existing planting is likely to have changed the character and appearance of the lane in the immediate vicinity but for a number of reasons I am not persuaded that this would now be reason enough to dismiss the appeal.
7. First, although some mature hedging has been removed, a replacement hedge utilising an appropriate, indigenous species (hawthorn) has been replanted behind the line of the visibility splay which in the fullness of time will mature, replacing much of the character.
8. Secondly, although it has been put to me that the insertion of the access would create a harder urban appearance which would be alien to the lane this would not be dissimilar in finished appearance to some of the accesses to neighbouring properties on the north-east side of the lane.
9. Thirdly in the approach from the north-west on Hackmans Lane sufficient remains of the boundary planting to the nursery such that the proposed hardstanding and parking area would still benefit from effective screening particularly when planting is in leaf over at least 6 months of the year. In the approach from the south-east, the character of Hackmans lane is much more open anyway with fields adjacent to the road on the south-west side such that the creation of the proposed access would not represent a significant change to the more open character.
10. I have been invited to conclude that the removal of the mature hedging has opened up the site and the creation of the access would make the nursery and the dwelling more visible, representing greater intrusion of development in the countryside and changing the rural nature of the lane. Whilst I acknowledge that there may be some impact in this regard, the removal of planting and the creation of the hardstanding could be mitigated in the event the appeal is allowed by imposing a condition requiring the submission and implementation of a hard and soft landscaping scheme to ensure the access and parking area would be integrated into the wider landscape.
11. Subject to such a condition and, for the reasons above, the proposed access, driveway and parking area would not have any significant impact on character and appearance and would not be in conflict with Policy D1 of the *Maldon Local Plan* which sets out the need for design quality in the built environment. The policy requires that development should respect and enhance the local context and, whilst landscaping will take time to establish, there would be enhancement in due course. The appearance of the site from the lane would also be enhanced by the removal of the polytunnels as and when that part of permission (Ref 16/00080/COUPA) is implemented.

Other Matters

12. The Parish Council raised concerns that it considered the proposed culvert size would be inadequate for the ditch in a storm event. However, it is clearly stated by the Council's drainage officer that the capacity as proposed would be adequate and there is no evidence before me to suggest to the contrary.

Conclusion and Conditions

13. In reaching my decision I have had regard to the matters before me. The above assessment shows that, in the particular circumstances of this case, the creation of

the access and driveway would not have a detrimental impact on the character and appearance of the lane subject to the imposition of conditions. The appeal should be allowed and planning permission granted.

14. The Council unusually proposed no conditions in the event that the appeal was allowed although the Highway Authority proposed that if the application was approved it should be subject to conditions. Accordingly, I prepared a list of proposed conditions and consulted both the Council and appellant on the list and offered them the opportunity to comment. The appellant responded agreeing with the imposition of the proposed conditions in the event the appeal is allowed and permission granted. The Council has not responded within the timescale set for comment.
15. I have considered the resulting conditions in the light of the advice in the Framework and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty.
16. In the interests of helping to mitigate the effect of the removal of previous planting and to blend the development in its setting, conditions are necessary relating to submission of and implementation of a landscaping scheme as minimal details have been provided.
17. A number of conditions need to be added in the interests of securing highway safety. These are necessary to control the provision and retention of the parking bays and turning area, provision of the access, provision and retention of visibility splays and details regarding the construction of the access. Without these being imposed there could be an adverse impact on highway safety as a result of the development.

P. D. Biggers

INSPECTOR

Schedule A Conditions

- 1) The development hereby permitted must be begun no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: Site Location Plan; Block Plan (with dimensions and proposed planting).
- 3) The development hereby permitted shall not be brought into use until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and new planting.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become

seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 5) Prior to the access hereby permitted being brought into use space shall be laid out for two cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. That space shall thereafter be kept available at all times for the parking and turning of vehicles.
- 6) Prior to the development hereby permitted being brought into use the vehicular access, including the culvert, shall be laid out and constructed in accordance with the Essex County Council construction specification. The access shall be a minimum width of 3m, for a minimum distance of 6m measured from the near edge of the highway carriageway.
- 7) Prior to the access hereby permitted being brought into use two visibility splays of 2.4m x 215m shall be provided each side of the vehicular access measured from and along the highway boundary. Such splays shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the adopted public highway.
- 8) The access hereby permitted shall be constructed using a bound material to prevent debris spreading onto the adopted public highway and constructed so that its falls and levels are such that no water from the site drains across or onto the adopted public highway. Any gate or gates to the vehicular access shall be set back a minimum of 5m from the near edge of the highway boundary and shall be hung to open inwards.