



Appeal Decision

Site visit made on 28 February 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/R3650/W/22/3303303

West Lodge, Stilemans Estate, Hascombe Road, Godalming GU8 4AB

- 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 Asi Zarbafi against the decision of Waverley Borough Council.
 - The application Ref WA/2022/03253, dated 15 September 2021, was refused by notice dated 16 June 2022.
 - The development proposed is the construction of new access.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of new access at West Lodge, Stilemans Estate, Hascombe Road, Godalming GU8 4AB in accordance with the terms of the application, Ref WA/2022/03253, dated 15 September 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: D003 rev 01; 100 rev 01; and 20087-001 rev A.
 - 3) The development hereby permitted shall not be brought into use until visibility splays have been provided from a point 1 metre above ground level at the centre of the approved access and 2.4 metres back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 46metres towards Thorncombe Street and 42metres towards Godalming. Thereafter, nothing shall be planted, constructed, erected and/or allowed to grow on the triangular area of land within the visibility splay, which would obstruct the visibility described above.
 - 4) The development hereby permitted shall not be brought into use until;
 - a scheme for the provision of the turning of vehicles, so that they may enter and exit the site on to Allden Lane in forward gear, shall have been submitted to and approved in writing by the local planning authority, and
 - the development has been undertaken in accordance with the approved scheme.Thereafter the land used for the turning of vehicles shall be retained solely for that purpose.

Preliminary Matters

2. Although at the time of my site visit a gate was in situ in the location of the proposed access, no gate is shown on the submitted plans. It is not therefore considered to form part of the development subject of this appeal.
3. The appeal site is within the Green Belt. Policy RE2 of the Waverley Borough Council Waverley Borough Local Plan Part 1: Strategic Policies and Sites – 2018 (the Local Plan 2018) indicates that the Metropolitan Green Belt will be protected against inappropriate development in accordance with the National Planning Policy Framework (the Framework). Paragraph 147 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt. Paragraph 150 of the Framework guides that specific forms of development, including engineering operations, are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. In respect of the effect of the development proposal on the Green Belt, the Council have found that the development proposals would comply with the requirements of Policy RE2 of the Local Plan and the Framework. I have been presented with no compelling evidence from which to conclude otherwise.
4. In the context of this decision, the highway is considered to include public rights of way, including public roads, public footpaths and bridleways.
5. On request, a copy of the Surrey County Council Local Transport Plan 2022-2032 (the transport plan) has been provided. No parties would be prejudiced by my consideration of this publicly accessible document, which has been referred to by the Surrey County Council Rights of Way team.

Policy Context

6. Policy D4 of the Local Plan – 2002 (the local plan 2002) requires development to provide safe access for pedestrians and road users. Amongst other things, policy TD1 of the Local Plan 2018 requires new development to be designed so that it creates safe environments. Paragraphs 110 and 112 of the National Planning Policy Framework (the Framework) similarly guide that development should create places that are safe, and which minimise the scope for conflict between pedestrians, cyclists and vehicles. It is also indicated that priority should be given first to pedestrian and cycle movements, both within the scheme and with neighbouring areas.
7. Paragraph 111 of the Framework guides that development should only be prevented on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The Transport Plan seeks to prioritise sustainable travel modes including walking and cycling over less sustainable travel modes, which include private car. To do so, the plan indicates that measures which will increase safety will be encouraged and promoted.

Main Issues

8. The main issues are the effects of the development on highway safety, with particular regard to pedestrians, cyclists and horse riders.

Reasons

9. The appeal site comprises a short section of highway known as Alldens Lane, and a narrow strip of land adjoining the highway, within which it is proposed that an access be formed. The appellant advises that the narrow strip of land forms part of a wider landholding containing the dwelling known as West Lodge, Stable Flat, and equestrian facilities.
10. Although a snap-shot in time, during my mid-week and late morning site visit, Alldens Lane was lightly trafficked by motorised vehicles, travelling at relatively low speeds. I also witnessed pedestrian and cyclist use of both the lane and the Public Rights of Way close to the site, and I accept that the public rights of way network in the area is well utilised.
11. The public rights of way which adjoin Alldens Lane either side of and close to the proposed access, mean that it is likely that there will be a higher volume of pedestrians, cyclists and horse riders travelling along the stretch of Alldens Lane past the proposed access, than if these public rights of way were not present. Although there is no designated footway alongside the highway close to the proposed access, the single carriageway is not especially narrow and there are verges and informal passing places alongside it. Together, these features enable oncoming vehicles, as well as pedestrians, cyclists and horse riders to pass each other with relative ease.
12. The submitted plans indicate that visibility splays of 42m and 46m could be achieved along Alldens Lane, from a point 2.4m back from the rear of the carriageway at the centre of the proposed access. Such splays, reflect the prevailing speeds of vehicles along the road and would afford good visibility of the proposed access to oncoming users of Alldens Lane, be they in a motorised vehicle or not. They would also afford those exiting the proposed access good visibility of oncoming users of Alldens Lane.
13. Given that Bridleway 176 joins Alldens Lane close to the proposed access, those entering the lane from this Bridleway would not benefit from the full extent of the visibility splays cited above. Nor, would those exiting the proposed access necessarily be able to view the Bridleway far to the rear of its junction with Alldens Lane. However, it is reasonable to expect that users of the Bridleway, be they on foot, bicycle or horseback, do and would continue to approach and join Alldens Lane with caution. Furthermore, when at the junction between this Bridleway and the lane there is clear intervisibility with the proposed access. Any noise resulting from vehicles accelerating as they approach and pass the junction would serve to benefit users of the Bridleway approaching Alldens Lane, as it would help to increase their awareness of oncoming vehicles.
14. The provision of a new vehicular access to the land under the control of the appellant is likely to result in an increase in the numbers of vehicles travelling along the lane. However, given that there is no proposal for this access be used to serve the equestrian facilities within the wider landholding, any such increase is likely to be small, and when combined with the above considerations would not be harmful to the safety of users of the highway or to the relative peace and tranquillity of the area.

15. The Highway Authority, who have assessed the development proposal on safety grounds, have not objected to the development proposal. This supports my previous findings.
16. For the reasons set out above, there is no basis to conclude that the proposed development would pose an unacceptable highway safety risk, with particular regard to pedestrians, cyclists and horse riders. Accordingly, and in this respect, I find no conflict with the requirements of policies D4 of the Local Plan 2002 or TD1 of the Local Plan 2018, where they seek to ensure that new development provides safe environments. Nor would the proposal conflict with the Framework where it aims to secure safe places which minimise the scope for conflict between pedestrians, cyclists and vehicles.

Other Matters

17. The appeal site is located beyond 400m but within 5km of the Wealden Heaths Special Protection Area (SPA). The importance of the SPA stems from its' supporting breeding populations of Nightjar, Woodlark and Dartford Warbler, all species which nest on or near the ground and are susceptible to predation and disturbance. The Habitat Regulation Assessment (HRA) prepared in support of the Local Plan, indicates that effects of the plan upon the SAC may arise from urbanisation, atmospheric pollution, reduced water availability and recreational pressure and disturbance.
18. A guidance note written by Natural England, indicates that in locations beyond 400m but within 5km of the Wealden Heaths SPA's schemes for less than 20 dwellings would be unlikely to need mitigation, an Appropriate Assessment or Natural England consultation. The Council have not indicated that the development would cause harm to the SPA. Furthermore, and although it would result in the provision of an alternative access to land under the control of the appellant, on the evidence before me, it would not result in any increase in the amount of vehicle movements to or from such land. It would not therefore lead to an increase in atmospheric pollution. Nor would it result in reduced water availability; urbanisation or increased recreational pressure and disturbance. As such, both alone and in combination with other plans or projects, I conclude that the development would not give rise to risk of likely significant effect on the internationally important features of the SPA.
19. Even if there is an alternative means of access to the wider estate, and/or there may be a better point of access on to Alldens Lane, I must assess the development subject of this appeal on its own merits.
20. Unless it were permitted development, planning permission would be required for any additional development beyond that subject of this appeal.
21. The appeal site is located within the Surrey Hills Area of Outstanding Natural Beauty (AONB) and an Area of Great Landscape Value. In such circumstances, policy RE3 of the Local Plan 2018 indicates that the protection and enhancement of the character and qualities of the area will be a priority. Paragraph 176 of the Framework guides that in AONB's great weight should be given to conserving and enhancing landscape and scenic beauty. However, given the absence of proposed built form, the development would not cause harm to the character or qualities of the area.

22. Even if trees and/or shrubbery close to the appeal site was removed prior to the planning application being made, it has not been demonstrated that any especial consent was required for such removal. The loss of vegetation may be regrettable in visual, landscape and biodiversity terms. However, in the absence of evidence demonstrating the planning need for replacement planting, it would not be reasonable or relevant to the development to be permitted to require such provision.

Conditions

23. The Council have suggested 5 conditions. The wording of conditions has been amended where appropriate. This is for the purposes of clarity and to meet the six tests outlined within paragraph 56 of the Framework.
24. The statutory condition which specifies the time-period for the implantation of the permission is imposed. For clarity a plans condition is also imposed, which identifies the plans to which this permission relates.
25. A condition requiring the development be undertaken in accordance with the type and colour of external materials indicated on the approved plans would not be reasonable in this case. This is because the plans do not include details of materials to be used.
26. I cannot be certain that there is space within the appeal site to enable the turning of vehicles so that they may enter and exit the site in forward gear. However, there is further land under the appellants control which would be suitable for such provision. In order to prevent an unacceptable risk of harm to users of the highway network, it is both necessary and reasonable to impose a condition requiring the provision of off-road vehicular turning space. The appeal scheme does not include any proposal for car-parking. No compelling evidence has been provided from which to conclude that there is a need for such to be provided within the appeal site. It is not therefore necessary to impose a condition requiring such provision.
27. A condition has been suggested which would require a replanting and landscaping scheme comprising native species. However, no compelling justification has been provided for such a condition, and for the reasons provided above, such a condition would not be necessary or relevant to the development to be permitted.

Conclusion

28. For the reasons given above and having regard to the development plan as a whole and other relevant material considerations, I conclude that this appeal should be allowed and permission be granted.

V Simpson

INSPECTOR