



Appeal Decision

Site visit made on 17 May 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2023

Appeal Ref: APP/E2340/W/23/3315449

Field 3226 At The Junction With Reedymoor Lane Whitemoor Road, Foulridge

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr T Philpot against the decision of Pendle Borough Council.
 - The application Ref 22/0485/FUL, dated 13 July 2022, was approved on 19 October 2022 and planning permission was granted subject to conditions.
 - The development permitted is 'Full: Formation of new field access'.
 - The condition in dispute is No 5 which states that: "*The access hereby permitted shall only ever be used for agricultural vehicles and agricultural machinery and not by any other vehicles whatsoever*".
 - The reason given for the condition is: "*The lane serving the site is not suitable for an increase in traffic that would be generated by the use of the access for non-agricultural activities*".
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Decision

1. The appeal is allowed and the planning permission Ref 22/0485/FUL for 'Full: Formation of new field access' at Field 3226 at The Junction With Reedymoor Lane Whitemoor Road, Foulridge, granted on 19 October 2022 by Pendle Borough Council, is varied by deleting condition 5.

Preliminary Matters

2. There is some discrepancy between the various documents as to the site address. I have taken the address from the decision notice as this is largely consistent with the appellant's appeal questionnaire.

Main Issue

3. Whether the condition is necessary and reasonable having regard to the effect removing it would have on highway safety.

Reasons

4. The proposed new access would lead into an existing field used for grazing. Adjoining land within the appellant's ownership is used for the keeping of horses. Additionally, I note that the appellant has obtained a license to accommodate up to five caravans on this land.
5. The new access would join Reedymoor Lane. Where it extends from Whitemoor Road (B6251) to the northeast, up to the appeal site, the lane is largely single width, bordered by hedgerow, with no passing places. To the southwest, the lane remains relatively narrow, but with more opportunities for passing.

6. A number of public footpaths extend off the highway and the road also forms National Cycle Route 68, indicating use of the road by pedestrians and cyclists as well as a mix of vehicles. The national speed limit applies, albeit traffic surveys referred to by the Highway Authority from 2019 suggest 85th percentile speeds of around 30mph and a low traffic count, indicating that this is a quiet road. This information is not disputed by the main parties.
7. Condition 5 would restrict use of the access to agricultural vehicles only, thereby preventing use by some horse related vehicles if related to the keeping of horses, or those associated with any future caravan site, if benefitting from permitted development rights under Part 5 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
8. The limited width of Reedymoor Lane and the lack of passing places up to the junction with Whitemoor Road, makes the passing of vehicles difficult and the present situation is likely to require caution and consideration by motorists, including when passing pedestrians and cyclists. However, this scenario is not unusual on country lanes. Whilst the removal of condition 5 would likely increase the use of the access and therefore the use of this short stretch of Reedymoor Lane, the frequency of vehicles accessing a private stables or a small caravan site, is unlikely to be high. Such vehicles would not be any larger in size than those associated with an agricultural use.
9. Further, whilst the width of Reedymore Lane is limited, visibility from the proposed access up to the junction with Whitemoor Road is achievable, and therefore motorists exiting the new access would have views of any oncoming traffic from the northeast, before committing to leaving the site. Likewise, when turning into Reedymoor Lane from the junction with Whitemoor Road, forward visibility of any oncoming traffic already on the highway is possible, including up to the new access, informing motorists of the need to give way. Visibility from the access would also be adequate to the southwest, where there is more opportunity for vehicles to pass in any event. As such, whilst removing condition 5 would potentially result in an increase in the use of the access, this would not be a significant increase and on a quiet road, where visibility allows motorists an awareness of the need to give way, and so, this would not be likely to lead to conflict with other road users.
10. I note that the Highways Authority (HA), expressed some concern with a proliferation of accesses onto the highway network, particularly where there are vulnerable users, as would be the case here, unless there is a benefit to highway safety, which they did not consider to have been demonstrated by the original proposal. Nevertheless, the HA did not object to the development and permission was subsequently granted for an additional access. The response from the HA did not seek any restriction in the use of the access to any particular use, and it raised no specific highway safety issues in this respect. It is clear from the response that they were aware of the caravan license obtained by the appellant.
11. To conclude on this main issue, the removal of the condition would not result in harm to highway safety and so the condition is not reasonable or necessary. The removal of the condition would therefore be acceptable having regard to Policy ENV4 of the Pendle Local Plan Part 1: Core Strategy 2011 – 2030 Adopted December 2015, which requires, amongst other matters, that new development has due regard to the potential impacts it may cause on the

highway network in terms of safety and the free flow of traffic. Additionally, removal of the condition would not conflict with the requirements of the National Planning Policy Framework Paragraph 111 in terms of ensuring that there is no unacceptable impact on highway safety.

Other Matters

12. Other matters unrelated to highway safety, have been raised by interested parties and in public representations made to the Council when the original planning application was considered, such as the possible loss of trees and hedgerow, impacts on the openness of the Green Belt, impacts on wildlife, lack of need for the access. However, these additional matters have received no objection from the Council and I see no reason to consider otherwise.
13. Interested parties raise concerns with further commercial development, if restrictions on the use of the access are eased. However, any applications for further development would need to be considered on their individual planning merits. Any breach of planning control relating to the nearby stables is not a matter for this appeal.

Conclusion

14. For the above reasons, the disputed condition is not reasonable or necessary in the interests of highway safety. I shall therefore allow the appeal and vary the original permission by deleting the disputed condition.

S Brook

INSPECTOR