



Appeal Decision

Site visit made on 22 August 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/Y3940/W/23/3314906

Land north of B4069 (E. 394063 N. 178427), Gate Farm, High Street, Sutton Benger SN15 4NW

- 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 H. Richardson against the decision of Wiltshire Council.
 - The application Ref PL/2022/01518, dated 23 February 2022, was refused by notice dated 14 November 2022.
 - The development proposed is creation of new agricultural access together with associated ancillary development and ground works.
-

Decision

1. The appeal is allowed and planning permission is granted for creation of new agricultural access together with associated ancillary development and ground works at Land north of B4069 (E. 394063 N. 178427), Gate Farm, High Street, Sutton Benger SN15 4NW in accordance with the terms of the application, Ref PL/2022/01518, dated 23 February 2022, subject to conditions in the attached schedule.

Preliminary Matter

2. Topographic survey drawing was received with the appellant's Statement of Case as part of the appeal. The Council states that this information was not provided at the application stage and correctly notes that the appeal process should not be used to evolve a scheme. However, the appellant is entitled to respond to the Council's reasons for refusal in their appeal submissions, which may include the provision of further information, as long as the proposal itself remains essentially the same, which it does in this case. The Council has had the opportunity to comment on the content of the appellant's Statement of Case and has done so. Therefore, I see nothing irregular in terms of process or in the content of the appellant's appeal submissions, and do not consider that any party would be prejudiced by me determining the appeal on the basis of the evidence presented.

Main Issues

3. The main issues are the effect of the proposed development upon the character and appearance of the area; and on highway safety.

Reasons

Character and appearance

4. The local area is not included within any specific landscape designation. The appeal site lies to the northern side of High Street, to the west side of Sutton

Benger. There are several accesses along the southern side of the road and the site lies within the speed limit signs for the settlement. During my site visit I observed that the road verges tended to comprise well maintained grass including some with embankments. Nonetheless, it has a rural character and appearance.

5. In accordance with Core Policy 51 of the Wiltshire Core Strategy 2015 (the WCS), development is required to conserve and where possible enhance landscape character. Moreover, WCS Core Policy 57 requires, amongst other things, that development is complementary to the locality and contributes positively to the character of Wiltshire.
6. The level of the field is much higher than the level of the road. As a result of the relative topography, the proposed access would be cut into the field. This means that much of the development, despite the width of the proposed entrance, would not be particularly visible in the wider area, including from the road, other than when in close proximity. Furthermore, because the access would be read in the context of the numerous accesses along the road, including existing residential and farm accesses with well-maintained grass verges and embankments, it would not look out of place.
7. Whilst I noticed that, as far as the appeal site is concerned, there was a small group of trees and a short section of hedgerow at the top of the grass embankment along the boundary of the field, there were also sections of open fence. Moreover, the proposal includes replacement planting, thereby, mitigating the loss of the existing vegetation.
8. The submitted plans demonstrate that the appeal scheme would not require retaining structures, with re-profiled earth banks sloping back up to the field level behind the proposed visibility splays. Even though the proposed access would be surfaced with tarmac and would have an engineered form, it would not appear out of keeping in the context of existing accesses. Additionally, the grass embankment either side would provide some screening and soften the appearance of the development.
9. Given the context and scale of the existing accesses together with its relationship with the edge of the settlement, the proposal would not appear as an unacceptable encroachment into the rural setting of the area, nor would it appear out of character in this part of the landscape. As such, the proposed development would not be prominent or harmful to the landscape setting of the appeal site or the wider area.
10. For the reasons given, there would be no harm to the character and appearance of the area. Therefore, there would be no conflict with Core Policies 51 and 57 of the Wiltshire Core Strategy 2015 (the WCS), which together, amongst other things, require a high standard of design and development to conserve and where possible enhance landscape character.

Highway safety

11. The proposed access would be onto the High Street, which is a busy road through Sutton Benger and is numbered B4069. There is a narrow pavement on the northern side of the road, which is unlit and has a speed limit of 30 mph where it passes alongside the appeal site.

12. The appellant owns the land within the appeal site either side of the point of the proposed access onto the B4069. It is proposed that the new access would be cut into the field, with a sloped entrance and re-profiled banks to provide visibility. The proposed drawings show visibility splays of 44 metres in each direction along the road.
13. I observed that the access would be on the inside of a slight bend in the road. There are straight sections of road either side of the proposed access. Core Policies 60 and 61 of the WSC together require that development maintains and improves the local transport network and ensures safe access to the highway network. These policies are consistent with the National Planning Policy Framework 2021 (Framework), where paragraph 110 requires that safe and suitable access can be achieved for all users, and paragraph 111 makes it clear that an unacceptable impact on highway safety may be sufficient ground for refusal of planning permission.
14. It was apparent from my site visit that the likely visibility standard would be obscured to a degree by the existing embankment alongside the road. However, it is evident from the submitted information that visibility in both directions would be achieved through the re-profiling of the embankment allowing the requisite splay dimensions to be achieved. Whilst the Council raised concern regarding vertical visibility along the proposed splays, the removal of vegetation and any other obstructions could be secured through a condition prior to the use of the development. Accordingly, vehicles emerging from the access onto the road would have clear visibility in either direction. I am satisfied that sufficient sight lines would be available to either side of the access and along the B4069.
15. It is noted that there is an existing, alternative access to the farmland to the east of the appeal site. However, it is clear from the submitted evidence that the proposal would support the farm operations and the evidence indicates that the existing access, due to its radii, means that its use by large agricultural vehicles results in such vehicles crossing over onto the opposite side of the carriageway in order to cope with the access. Moreover, the appeal scheme would allow livestock and vehicles to cross straight over the road when being moved from the appellants land to the south to the land on the north side of the road, thereby likely reducing the number of movements along the highway. The parties dispute the extent to which the existing access could be improved. Nonetheless, I am required to determine the appeal on its own merits based upon the existing circumstances.
16. Whilst there are existing farm and residential accesses within the immediate vicinity, they are an established part of the character and appearance of the locality and drivers will be well-used to people exiting driveways in the area. Moreover, I am satisfied that sufficient visibility would be achieved at the proposed access.
17. As a consequence, it would not have an unduly harmful effect on highway safety, even though there would be a number of accesses along the road. It would not conflict with Core Policies 60 and 61 of the WSC, and the provisions in the Framework in relation to promoting sustainable transport.

Other Matters

18. The appeal site is outside and disconnected from the Sutton Benger Conservation Area. The application was not refused for reasons of its likely effect on heritage assets. For the reasons outlined above, the appeal scheme would not harm the character and appearance of the area. Accordingly, it would not harm the significance of this designated heritage asset.
19. The appellant has explained that the associated ancillary development includes the surfacing of the access, drainage, fencing, landscaping and the re-siting of the existing power line pole. An interested party refers to 'NDP Objective 9'. However, no details have been provided and, there is no substantial evidence that this is an adopted part of the development plan. Accordingly, I have afforded this very little weight.

Conditions

20. The Council has not suggested any conditions should the appeal be allowed. As I am proposing conditions not previously suggested, the main parties were consulted on the proposed conditions. The appellant has confirmed they would have no objection to the imposition of these conditions. The Council has not responded by the date set, however, the conditions proposed are those necessary in order that the proposal is acceptable in planning terms.
21. I have imposed the standard time limit condition and have specified the approved plans as this provides certainty. In the interests of highway safety, a condition to ensure visibility within the visibility splays is retained is required. To protect the character and appearance of the area, a condition requiring the replacement of trees and hedge planting is necessary.

Conclusion

22. For the reasons given I conclude that the appeal should succeed.

J White

INSPECTOR

Schedule of 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: /PL05, /PL20 and /PL25.
- 3) Prior to the first use of the access hereby approved, the visibility splays shown on Drawing No /PL20 shall be provided and thereafter retained as approved.
- 4) There shall be no structure, earth bank, shrubs, trees or other vegetation exceeding 0.6m metres in height within the sight lines referred to in condition 3.
- 5) Prior to the first use of the access hereby approved, the vehicular access from the edge of the carriageway to the gate shall be constructed, surfaced, drained and completed in accordance with details shown on Drawing No /PL20.
- 6) All soft landscaping comprised in the approved plans shall be carried out in the first planting and seeding season following the first use or completion of the development, whichever is the sooner. All trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing with the Local Planning Authority.