



Appeal Decision

Site visit made on 27 February 2024

by C Carpenter BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 April 2024

Appeal Ref: APP/D3505/W/23/3328950

The Mane Riding Centre, Old London Road, Copdock And Washbrook, Suffolk IP8 3JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs A & L Coe against the decision of Babergh District Council.
 - The application Ref DC/22/02337 was approved on 23 June 2023 and planning permission was granted subject to conditions.
 - The development permitted is change of use from an ancillary annexe for a family member to a dwellinghouse now known as the Stable Cottage (C3).
 - The condition in dispute is No 3 which states that: Within six months of the granting of this permission, access shall be made available for motor vehicles to pass to the east of the application site (as shown on drawing "SITE PLAN 0837-SC.02.1") and continue through to the land in the client's ownership as shown on "LOCATION PLAN 0837-SC.01.1 - COE" dated 4th May 2022 and thence on to Old London Road to utilise the access relating to appeal APP/D3505/W/22/3297204. Such access arrangements shall include the permanent removal of any existing physical barriers and shall be in place at all times.
 - The reason given for the condition is: To ensure better connectivity for the proposed dwelling to its neighbours, in the interests of a well-integrated development.
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Decision

1. The appeal is allowed and the planning permission Ref DC/22/02337 for change of use from an ancillary annexe for a family member to a dwellinghouse now known as the Stable Cottage (C3) at The Mane Riding Centre, Old London Road, Copdock And Washbrook, Suffolk IP8 3JF granted on 23 June 2023 by Babergh District Council, is varied by deleting condition No 3.

Preliminary Matters

2. Paragraph 56 of the National Planning Policy Framework (the Framework) states planning conditions should only be imposed where they meet six tests. Each of the six tests needs to be satisfied for each condition which an authority intends to apply¹.
3. The Framework was updated in December 2023, during the course of this appeal. However, the section on planning conditions has not changed. Therefore, I am satisfied no party would be disadvantaged by not having the opportunity to provide observations on the new Framework.

¹ Planning Practice Guidance Paragraph: 003 Reference ID: 21a-003-20190723

4. A new Babergh and Mid Suffolk Joint Local Plan Part 1 (JLP1) was adopted in November 2023, after the Council's decision on the planning application subject of this appeal. The Council's appeal statement, which post-dates the adoption of JLP1, states the CS Policies previously referred to are no longer relevant and identifies the JLP1 Policies relevant to the appeal. The appellant has had the opportunity to comment on the JLP1 Policies referred to by the Council.
5. The appellant considers the fence that has been erected across the route through the wider site at The Mane Riding Centre has planning permission granted by the Town and Country Planning (General Permitted Development) (England) Order 2015. This is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. It is open to the appellant to apply to have the matter determined under sections 191 or 192 of the Act. Any such application would be unaffected by my determination of this appeal. I have considered the appeal on its merits.

Background and Main Issue

6. The Council is concerned that Stable Cottage should remain linked to the family of buildings it belongs to, in the interests of connectivity. It considers the driveway that loops south-westwards to join Old London Road provides poor connectivity and is ill-related to its surroundings; and that the shorter route to the north provides a more logical path, for both vehicles and pedestrians. It therefore imposed condition No 3 to ensure better connectivity for the development.
7. The appellant states condition No 3 is not necessary because the southern access already exists and will remain as the principal access to the development. In their view there is no planning reason to insist on access northwards. They also consider the condition to be unenforceable.
8. The main issue in this appeal is therefore whether condition No 3 satisfies the tests for planning conditions, with particular regard to necessity, relevance to planning, and enforceability.

Reasons

Necessity

9. The wider site known as The Mane Riding Centre comprises a group of buildings and a paddock or small field. The wider site's complex planning history has involved its change from use as a riding centre to an emerging cluster of primarily residential buildings. There are two points of access to and from Old London Road, broadly located at the north and south-west corners of the wider site. The south-west access point also serves a separate commercial use and a new housing development to the south.
10. The building now known as Stable Cottage is at the southern end of the emerging cluster of dwellings at The Mane Riding Centre. It does not face onto the main 'yard' area, which provides a focal point for most of the homes, including the main house, a converted building and new build premises under construction at the time of my visit. Although the volume of vehicle movements associated with one dwelling would be limited, the route from Stable Cottage to this yard area is narrow and relatively long so does not provide the easiest route in or out. Moreover, the Cottage's primary entrance and parking area are orientated to face the route into the site from the south-west. The Council

accepts the disputed condition would not prevent the southwestern route being used. For these reasons, the south-western route is likely to function on a day-to-day basis as the main point of vehicular access to the dwelling for residents, visitors and services, whether or not the northern route is open.

11. I recognise that the previous functional relationship between the building's use as a residential annexe and the main dwellinghouse provided a logic for maintaining vehicular access between the two. However, change of use from annexe to separate dwelling severs this functional relationship, notwithstanding the sequence of events that led to its permission. Therefore, Stable Cottage as a separate dwelling has neither a strong spatial nor functional relationship with the majority of the other dwellings at The Mane Riding Centre site. Consequently, physical connectivity with those dwellings is not necessary. This would remain the case whatever the outcome of the planning application for The Paddock Stable².
12. The Council point out that access to Old London Road from Stable Cottage is longer via the south-western route than the northern route. However, even if the difference in length is 100 metres as the Council suggests, this would add just seconds to the drive time and only a few minutes to the walk to the nearby bus-stop. I walked both routes to the bus-stop during my visit and found little material difference between the two. I also found little greater logic to the northern route given the stop is located approximately half-way between the two exits onto the road. Moreover, the south-western route has an acceptable relationship to its surroundings given it serves more than one use including several other dwellings.
13. I am therefore not persuaded that access via the slightly shorter northern route would materially enhance the connectivity of Stable Cottage as a separate dwelling, nor that the absence of access via this route would materially harm it.
14. For these reasons, I find condition No 3 does not meet the test of necessity.
15. I find no conflict between the proposed removal of condition No 3 and Policy LP24 of JLP1, which requires development to create/reinforce a strong design to the public realm and include linkages to contribute to a walkable neighbourhood. I also find no conflict with the supporting text of the Policy where it explains that good practice in design principles includes permeability and connectivity. Further, I find no conflict with the Framework, where it sets out the principles of good design including the creation of places that are safe, inclusive and accessible.

Relevance to planning

16. Connectivity is a matter related to the planning objective of good design as set out in JLP1 Policy LP24. It is also inherent in the Framework's objective of good design, as noted above. In addition, the question of connectivity falls within the scope of the permission in this case because it is one facet of the difference in relationship between a primary dwelling house and a residential annexe on the one hand, and between two separate dwellings on the other.
17. For these reasons, I find condition No 3 does meet the test of relevance to planning.

² Reference DC/23/05186

Enforceability

18. A breach of condition No 3 would inevitably involve the erection of a physical barrier obstructing access for motor vehicles to the route described in the condition. The local planning authority would be able to detect a breach through observation of such a barrier. It follows that monitoring of the condition would be neither unreasonably onerous nor practically impossible.
19. I have addressed the question of permitted development rights under preliminary matters.
20. For these reasons, I find condition No 3 does meet the test of enforceability.

Conclusion

21. I have found that, whilst condition No 3 does meet the tests of relevance to planning and enforceability, it does not meet the test of necessity. I therefore conclude the condition does not satisfy the tests for planning conditions.

Other Matters

22. Planning permission does not negate or supersede private legal rights relating to land ownership. Accordingly, issues relating to land ownership have not had any material bearing on my assessment of this appeal.

Conclusion

23. For the above reasons, I conclude the appeal should be allowed and the original permission should be varied by deleting condition No 3.

C Carpenter

INSPECTOR