



Appeal Decision

Site visit made on 1 March 2024

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2024

Appeal Ref: APP/J3720/W/23/3329922

Land off Evesham Road, Stratford-upon-Avon, Warwickshire CV37 9RY

- 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 Angelo Buratti against the decision of the Stratford on Avon District Council.
 - The application Ref 23/01354/FUL, dated 17 May 2023, was refused by notice dated 12 July 2023.
 - The development proposed is for alterations to existing field access to provide access for a service vehicle.
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Decision

1. The appeal is allowed, and planning permission is granted for alterations to existing field access to provide access for a service vehicle at Land off Evesham Road, Dodwell, Stratford-upon-Avon, Warwickshire CV37 9RY in accordance with the terms of the application Ref 23/01354/FUL, dated 17 May 2023, subject to the conditions set out in the attached Schedule to this decision.

Procedural Matter

2. The description of development in the heading is taken from the planning application form, however, for clarity, there is no existing access from Evesham Road. The appeal form indicates that the description was changed but neither of the main parties has provided written confirmation that a revised description of development has been agreed. Whilst there is a division marked on the layout plan which suggests gates, no details are included with the application.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area.

Reasons

4. The proposal would create a new access point into a field off Eversham Road to the west of Mulbury Farm and Glen Yeat. Both these properties and the two properties opposite have individual accesses from Eversham Road and form a small cluster of built form within the open countryside. There are also a couple of gated field accesses along this stretch of the road including one to the west of the appeal site into the adjacent field.
5. The appellant explains that the proposed access is to facilitate the servicing of an existing bio digester tank located within the field. Warwickshire County Council as highway authority do not object to the proposal, subject to

conditions. Only the front section of the access from the highway would comprise a solid surface, with the majority of the development within the field proposed as a permeable paving grid which would allow the vegetation to grow through. Thereby the visual intrusion to the field once established would be limited. The setting back of the potential gates would allow a vehicle to clear the highway and reflects the form of the other nearby access drives. In this context, and the sporadic development along Eversham Road I do not find that the access would be an incongruous feature.

6. To facilitate the access a section of the existing vegetation would have to be removed and inevitably some form of boundary would be required. Gates and boundary treatments to the nearby properties vary, and I acknowledge that substantial structures can have a domesticating effect which would be out of keeping with the open agricultural field. No detailed information relating to these elements forms part of the application, and whilst they can be erected, within certain limitations, under permitted development rights their appearance can vary significantly. However, as suggested by the appellant the details could be secured by condition, and I agree that this could mitigate the potential harm.
7. Policy AS.10 of the Stratford-on-Avon Core Strategy (CS) applies to all parts of the district outside the built-up area boundaries and sets out 6 bullet points which proposals will be assessed against. The second limb of the policy sets out the forms of development which in principle will be supported. This is not a closed list, as the policy allows for other types of development which are fully justified and offer significant benefits to the local area. I nevertheless concur with the appellant that the underlying purpose is important, and the strategic objective of policy AS.10 is identified as maintaining and enhancing the rural character of the District. Additionally, given that the types of developments supported are primarily buildings, engineering operations should be proportionately considered.
8. The appellant advises that currently, the emptying of the tank takes place from a vehicle parked on the highway approximately four times a year. The Council indicate that the tank has been in situ since at least April 2017, and there is no evidence before me of any incidents which have occurred. Nonetheless, whilst it is not a frequent occurrence the operation which takes a few hours will create an obstruction to the footpath and the B459 (Eversham Road) which is a busy road with a 50mph speed limit. Therefore, there would be benefits of the proposed arrangements to the free flow of traffic.
9. The Council suggests that there is alternative access, but this is speculative. The existing field access to the west is some distance from the tank and not in the applicant's control, and any routes across a field would require some form of hard surfacing to enable a service vehicle to traverse the unmade ground. Similarly, concerns that the access could be extended to provide access to the existing properties to the east is not what has been applied for, and any access which deviates from the details of this proposal or other development would be subject to further consent.
10. The Council has also referred me to a recent appeal decision relating to a new access elsewhere within the District (Ref: APP/J3720/W/23/3320386). The specific details of that case are not before me, but with reference to the decision, planning permission had been granted for a different access

arrangement and the development opened up views of the recycling facility which it served. Subject to the use of the materials proposed and the design of any gates reflecting the rural setting (which can be secured by condition) general views of this site from passersby would be of an agricultural field. As such, I do not find that it is directly comparable, and each proposal is to be considered on its own merits.

11. Accordingly, I do not find that the proposed access would significantly harm the character and appearance of the area and would not directly conflict with the assessment bullet points of CS policy AS.10 which includes minimising the impact on the character of the local landscape, communities and environmental features. It would also accord with CS policies CS.5 and CS.9 which seek to maintain the landscape character, reflect the distinctiveness of the locality and promote good design.

Other Matters

12. In coming to my decision, I have had regard to the comments of the Parish Council and third parties. I am conscious of the reference to the planning history and that a mobile home sited within the wider extent of the field is the subject of a current application for a lawful development certificate. However, these are matters outside the scope of this appeal and in light of my conclusion on the main issue, this is not a reason to withhold planning permission for the formation of the access.

Conditions

13. The Council have suggested a number of conditions which I have assessed in regard to the advice provided in the Planning Practice Guidance (PPG). I have imposed standard conditions relating to the commencement of development and to require compliance with the submitted plans. Details of the surfacing material are also necessary to accord with the highway authority's requirements and to ensure the appearance reflects the illustrative details.
14. Conditions are also required in relation to highway safety to ensure that the turning facility is in place before use and that any gates are sufficiently setback. Additionally, as set out above, in the interest of the character and appearance of the area the details of any gates or boundary treatment are to be agreed. As the proposed surfaced area is specifically designed to serve the bio tank and does not provide any further access, I do not find it is necessary to specifically restrict its use.
15. The protection of nesting birds is covered by other legislation and therefore a separate planning condition relating to the timing of the hedge removal is not required. Also, any work relating to the connection to the public highway will be subject to separate notice and procedures of the highway authority.

Conclusion

16. With the provision of the conditions in relation to the materials and any potential associated boundary treatments the development would appropriately integrate with the character of the area and accord with the development plan as a whole. Therefore, for the reasons set out the appeal is allowed.

G Ellis

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: Dwg No. 25187-01 Proposed Access and Turning Area and Dwg No. PF10660.01 Red Line Plan - Proposed New Access.
- 3) The access shall be surfaced with a bound macadam material for a distance of 8 metres as measured from the near edge of the public carriageway. The remainder of the access/turning area shall be formed of a permeable paving grid in accordance with the details to be approved in writing by the local planning authority.
- 4) The access shall not be used until the turning area has been provided within the site so as to enable vehicles to leave and re-enter the public highway in a forward gear.
- 5) Any gates erected at the entrance to the site for vehicles shall not be hung so as to open within 8 metres of the near edge of the public highway carriageway.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no gates, fences or walls shall be erected without the prior approval of the local planning authority and shall be erected in accordance with the approved details.