



Appeal Decision

Site visit made on 21 October 2025

by **K Savage BA(Hons) MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 December 2025

Appeal Ref: APP/T2405/W/24/3339562

Mill Bank House, Leicester Road, Sapcote, Leicestershire LE9 4JF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr John Mac against the decision of Blaby District Council.
- The application reference is 23/0827/VAR.
- The application sought planning permission for 'retention of existing storage containers adjacent to hay and machinery barn for use in association with planning permission 18/1096/FUL, including improvements to existing access' without complying with a condition attached to planning permission Ref 22/0085/FUL, dated 29 September 2022.
- The condition in dispute is No 3 which states that: Within two months of the date of this permission, details shall be submitted to the District Planning Authority for approval to show the permanent closure of the existing vehicular access on Leicester Road to the east of Millbank House. Within two months of the subsequent approval, this vehicular access shall be permanently closed in accordance with the agreed details.
- The reason given for the condition is: In the interests of highway and pedestrian safety in accordance with the National Planning Policy Framework (2021).

Decision

1. The appeal is allowed and planning permission is granted for 'retention of existing storage containers adjacent to hay and machinery barn for use in association with planning permission 18/1096/FUL, including improvements to existing access, at Mill Bank House, Leicester Road, Sapcote, Leicestershire LE9 4JF in accordance with the application Ref 23/0827/VAR, without compliance with condition numbers 1, 3, 4, 5 and 6 previously imposed on planning permission Ref 22/0085/FUL dated 29 September 2022, but subject to the conditions set out in the attached schedule.

Background and Main Issue

2. The appeal relates to land to the northern side of Leicester Road to the east of the village of Sapcote. The site includes a two storey dwelling standing close to the road with associated outbuildings to the side and rear, and a large tract to land to the west and north which was the site of the former Sapcote Quarry.
3. There is a lengthy planning history leading to the present appeal. Permission was granted in November 2019¹ for a replacement dwelling for the original Mill Bank House. Granted concurrently with this was permission for change of use of agricultural land to horsiculture, construction of a new hay and machinery barn to the northern end of the former quarry site and formation of new vehicle access.²

¹ Council Ref 18/1092/FUL

² Council Ref 18/1096/FUL

4. In 2022, a retrospective application was made to retain existing storage containers adjacent to the hay and machinery barn for use in association with planning permission 18/1096/FUL and improvements to the existing access. It is indicated that the appellant was pursuing alternative proposals for the replacement dwelling at the time, with this application permitting a revised access for the hay and machinery barn to the west of the existing house in place of the originally permitted access that followed a route through the footprint of the existing dwelling. I saw this access in place at the time of my visit.
5. This application was approved in September 2022 under Council Ref 22/0085/FUL. Condition 3 of this permission is the subject of the appeal, which requires the existing access to the east of Mill Bank House to be closed up following details first having been submitted to and approved by the local planning authority.
6. The appellant states that subsequent to this permission, a further permission has been granted in December 2023³ for a different replacement dwelling roughly on the site of the original dwelling. The approved plans for this development show vehicular access to proposed parking spaces would be via the newly created entrance to the west. The dwelling appeared constructed on site when I visited.
7. The appellant seeks to vary the disputed condition to allow retention of the entrance to the east of Mill Bank House.
8. The National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. The Planning Practice Guidance adds that these six tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.⁴
9. Therefore, the main issue is whether the disputed condition meets these tests, having regard to the reason for its imposition, namely the effect on highway safety.

Reasons

10. The evidence before me is that the site formerly benefitted from two access points, both of which appeared to serve the previous dwelling and its associated outbuildings, including a haybarn. The historic entrance to the west was significantly smaller than that now in place, which features a wide bellmouth capable of handling large vehicles.
11. The proposal before me includes improvements to the existing eastern access to widen it to 6 metres with 6 metre radii, a 1:12 gradient and visibility splays of 2.4m x 90m to the west and 2.4m x 100m to the east.
12. The Council's case, supported by Leicestershire County Council (LCC) as the local highway authority, is that there is no demonstrable necessity for the retention of the eastern entrance, as vehicular access to the replacement dwelling has been permitted via the western entrance. It is stated that where accesses are made redundant by proposed developments, the LHA considers it prudent that they are closed to minimise unnecessary points of conflict within the highway.

³ Council Ref 23/0699/FUL

⁴ Paragraph: 003 Reference ID: 21a-003-20190723

13. Policy DM8 of the Blaby District Local Plan (Delivery) Development Plan Document (February 2019) (the DDPD) requires all new development to meet highway design standards as set out in the most up-to-date Leicestershire Local Highway Guidance.
14. Reference in this respect is made to Part 1, Section IN5 of the Leicestershire Highway Design Guide (Interim Update January 2022) (the LHDG). This relates to new accesses onto A and B Class roads, stating that LCC will normally apply restrictions on new accesses for vehicles and the increased use of existing accesses on roads with a posted speed limit above 40mph or where measured speeds exceed 40mph.
15. The position of the Council and LCC is that the disputed condition was imposed to ensure there was no net increase in the number of access points onto Leicester Road, a classified B-road, and that retention of the eastern access would result in such an increase. It further states that the storage containers approved under the planning permission in question, Ref 22/0085/FUL, will have resulted in an increase in trips to and from the site and that there has been an intensification of vehicular traffic onto Leicester Road, which is indicated to have recorded 85th percentile vehicle speeds in excess of 40mph.
16. Whilst the LHDG approach is restrictive, the use of the word 'normally' indicates a degree of flexibility. Moreover, the Framework makes it clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios. Thus it is reasonable to go beyond strict application of the guidance to consider the actual potential impacts of retaining two accesses.
17. In this respect, the two historic entrances both served a single property and appeared from the aerial photography submitted in evidence to be modest in size and usage. The current arrangement includes a much larger, engineered western access capable of handling more and larger traffic. Therefore, the situations are not directly comparable, notwithstanding that there may still be two access points onto Leicester Road.
18. However, there is little evidence to demonstrate that the two access points would generate more traffic compared to having just one. As approved, domestic traffic associated with the dwelling would use the western access point, versus using the eastern access point if the appeal were permitted. The result, so far as I can see, would be a simple separation of existing domestic and other traffic, rather than an increase. There is no other evidence from the Council or LCC that demonstrates that the imposition of the original condition was based on site-specific evidence of accumulation in traffic levels that pointed to a particular highway safety concern.
19. One concern may be the proximity of the accesses and potential conflict with vehicles emerging simultaneously. However, the existing uses are residential and storage related to horsiculture. Neither is likely to generate significant, continuous volumes of traffic that would lead to a high risk of direct conflict between vehicles entering into or emerging from the two access points at the same time.
20. Moreover, despite some dispute between the parties as to measured speeds and the resulting length of visibility splays required, LCC accepts that adequate visibility from the eastern access can be provided in both directions, and that there

have be no personal injury collisions within 500m of the access point in either direction over the past five years. I saw on site that whilst traffic on Leicester Road was steady, speeds were not visibly excessive compared to the posted speed limit. Notably, traffic from the west is emerging around a blind bend and thus comes into view from the access point at a lower speed. Both access points also have clear view of each other and LCC is satisfied that the necessary physical geometry of the eastern access could be amended by planning condition to satisfy its requirements.

21. Drawing these considerations together, the eastern access point would be capable of meeting the necessary technical requirements for size, gradient and visibility to ensure safe access and egress by vehicles. The evidence otherwise does not indicate that there would be an overall increase in vehicular traffic were two accesses allowed to be retained versus just one, or that the existence of two accesses on a straight stretch of road would cause an inherent highway safety risk. In the absence of such evidence, I find that the condition requiring the eastern access to be closed up is not necessary to ensure highway safety, and therefore I find no conflict with the overall aims of Policy DM8 or the Framework.
22. The alternative condition proposed by the appellant is necessary, however, to ensure that the eastern access is laid out to the correct geometry and provides adequate visibility splays, to ensure highway safety in accordance with the aforementioned policies and guidance.

Conclusion

23. For the reasons set out, I shall allow the appeal and grant a new planning permission without the original Condition 3, but with an amended version of it requiring necessary physical alterations to the retained access. I have used the wording provided by LCC, as this more precisely sets out the physical dimensions required for the retained access.
24. The PPG makes clear that decision notices for the grant of planning permission under Section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged. The original Condition 1 is still necessary, but is amended to specify the new approved plans. Condition 2 is still necessary to ensure the use of the storage containers is appropriate to the countryside location, as is the original Condition 7 requiring the removal of the containers when no longer needed for their intended purpose. The Council has confirmed that Conditions 4, 5 and 6 relate to works already carried out, and are no longer necessary. I shall not therefore re-impose them.
25. Two additional conditions are put forward by the Council, one requiring visibility splays to be provided and maintained, and the second restricting the placement of gates or other barriers within 11 metres of the highway boundary, which coincides with the stated distance to the proposed gate on the submitted plans. Both are necessary to ensure highway safety, and I agree that they should be imposed.
26. The appeal is therefore allowed, subject to the conditions in the attached schedule.

K. Savage

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing numbers: B21/17/L01 (Location Plan); B23/20/S01C (Site Plan); B21/17/P01 Rev B (Plan and Elevations as Proposed).
 - 2) The two storage containers hereby approved shall be used for storage purposes, ancillary to the use of the site for horticultural purposes only, and for no other purpose.
 - 3) Notwithstanding the approved plans, within 3 months of the date of this decision notice the existing access to the east of Mill Bank House shall be improved so as to have a minimum width of 6 metres, 10 metre corner radii, a gradient of no more than 1 in 12 for a distance of at least 11 metres behind the highway boundary and shall be surfaced in hardbound material for a distance of 11 metres behind the highway boundary. The access once improved shall be so maintained at all times.
 - 4) Within 3 months of the date of this decision notice, vehicular visibility splays of 2.4 metres by 130 metres and 2.4 metres by 129 metres shall be provided to the north and south of the existing site access (east of Mill Bank House) respectively. These shall thereafter be nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
 - 5) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 11 metres of the highway boundary.
 - 6) When no longer required for their intended purpose, the storage containers shall be removed from the land as soon as possible.
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