



Appeal Decision

Site visit made on 7 November 2018

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2019

Appeal Ref: APP/R3325/W/18/3206441

Land at Bullring Farm, Knowle Lane, Misterton, Crewkerne TA18 8LY

- 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 Ms L Mason against the decision of South Somerset District Council.
 - The application Ref 17/02693/FUL, dated 22 June 2017, was refused by notice dated 30 January 2018.
 - The development proposed is to improve and upgrade vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted to improve and upgrade vehicular access at land at Bullring Farm, Knowle Lane, Misterton, Crewkerne TA18 8LY in accordance with the terms of the application, Ref 17/02693/FUL, dated 22 June 2017, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. A revised National Planning Policy Framework (the revised Framework) was published on 24 July 2018, replacing the previous version. The appellant was notified of the publication and invited to make comment on any implications the revised Framework's publication has for the consideration of the appeal development. I have had regard to the revised Framework in determining this appeal.
3. A temporary planning permission was granted in 2015 to allow alterations to the access, works to reduce the gradient of the access and provision of compacted gravel/stone surface. That permission was granted subject to a condition requiring the land to be restored to its original condition by 30 June 2016. Such restoration works have not taken place and the current appeal proposal instead seeks permission for the permanent construction of a widened access. I saw the extent of the works that have been undertaken on my site visit and, accordingly, have proceeded to determine this appeal on the basis that the development has already commenced.

Main Issue

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

Reasons

5. Knowle Lane is a narrow country lane extending southwards and uphill from Misterton. It is heavily treed and flanked on both sides by high hedge banks. Given the steep gradient from the road to the appellant's land, hard landscaping is proposed with retaining stone gabion baskets which would have pocket planting on top to soften their appearance. The enlarged access would also be surfaced with concrete aggregate for the first 6m, with the surface beyond it being porous.
6. The development would require the removal of 4 prominent roadside trees in order to achieve the necessary highway visibility splays. The trees would be replaced with a planting scheme, in line with proposals submitted with the planning application, comprising a mix of oak and hazel on either side of the access. The proposed landscaping treatment has been set out in the appellant's Landscape Proposals document and aims to respect the local context, and reinforce the landscape character of the area.
7. In widening the access and introducing hard landscaping features, the appeal development would introduce a change in the current rural character and appearance of the lane. However, given the narrow and steeply sided nature of the lane, the alterations in the landscape would be apparent over only a relatively limited section when travelling along it. Furthermore, I note the Local Planning Authority's (LPA) view that, despite not having received express approval, use of the access already lawfully exists. On the basis of the evidence before me, I see no good reason to dispute that. In that context, the proposed tree planting and other landscaping measures would, in my view, suitably respect the site's setting and provide appropriate landscape mitigation in accommodating and consolidating an improved access. This is a matter that could be secured through a suitable planning condition. Overall therefore, I do not find that the proposed development would give rise to unacceptable harm to the character and appearance of the area. Accordingly, the proposed development would accord with Policy EQ2 of the adopted South Somerset Local Plan (2006 – 2028) (March 2015). This policy requires development to be designed so as to achieve a high quality, promote local distinctiveness and preserve or enhance the character and appearance of the area.

Other Matters

8. The appeal site lies in a part of the highway where a 60mph speed limit applies. However, it lies a very short distance from the village 30mph zone to the north of it. I note that, despite standing advice being applicable, an officer from the Highways Authority nonetheless visited the site and advised that a junction design standard based on assumed traffic speeds of around 30mph would be adequate. My own observations, whilst not necessarily representative of road conditions at other times, were that vehicles did not appear to be travelling at excessive speeds in this stretch of highway. On leaving the village it is unlikely, given the narrow, rural nature of the lane, that vehicles will have accelerated significantly before reaching the appeal site. Furthermore, I observed that the 30mph speed signs on the edge of the village are clearly visible for some distance when travelling northwards towards the site. Consequently, again given the nature of the country lane, it would be reasonable to expect drivers to already be anticipating the need to exercise increased caution when approaching the vicinity of the appeal site.

9. I appreciate that Misterton Parish Council and others have conducted their own observations and contend that traffic speeds are in fact higher, particularly when travelling downhill towards the site. However, I have been provided with no detailed information as to the circumstances in which any such data may have been collected. Accordingly, whilst no doubt some vehicles do travel at higher speeds, I have insufficient evidence before me to conclude that traffic speeds are such that the development would give rise to a materially increased risk to highway safety, such that it would be necessary to refuse planning permission.
10. I recognise that the need for the access has been questioned by interested parties, as has the relationship of the land it would serve with the land ownership of Bullring Farm. I also appreciate that current usage of the access is low. However, my finding above that an access already exist is a matter of some significance as its use could become intensified irrespective of the outcome of this appeal.
11. In this context, the appellant has provided details to show how visibility splays of 43m in each direction, with a set-back of 2.4m, could be achieved in line with Manual for Streets guidance. Consequently, this would, to my mind, provide adequate visibility for the prevailing road conditions and represent an improvement on the current position with respect to highway safety. I am therefore satisfied that no unacceptable increased risk to highway safety would result from the appeal development.
12. Concern has been raised over the potential for surface water flood risk to increase as a result of the development. However, a soakaway is proposed as part of the development and this is a matter which could be adequately controlled through use of a suitable planning condition.
13. I appreciate that concern has also been raised over the appellant's failure to comply with the terms of the previous planning permission in terms of restoring the land and in respect of her future intentions. However, I must decide the appeal on the basis of the evidence before me on this particular case and these matters are not determinative in my decision.
14. It has been suggested that bats may be present in the area which, as a protected species, should be afforded consideration. However, the development would not involve the demolition of any buildings and I have not been provided with any substantive evidence to suggest that there is otherwise a reasonable likelihood of bats being present and affected by the development. I therefore attach little weight to this consideration.

Conditions

15. The LPA has suggested the imposition of 5 conditions in the event of the appeal being allowed. I have considered these against the tests in paragraph 55 of the revised Framework and the Planning Practice Guidance. As a result, I have omitted 1 such condition and made amendments to others as follows.
16. Given the development has commenced, a condition specifying a time scale for implementation is not necessary and I have omitted it.
17. A condition specifying the approved plans is necessary in the interests of certainty. A condition is also necessary, in the interests of the character and appearance of the area, to require the proposed landscaping to be carried out

in a timely manner and for replacement planting to take place for a period of up to 5 years in the event of any trees or plants dying.

18. In the interests of managing drainage and flood risk, a condition is necessary to require the cessation of use of the access until the proposed water drainage system as shown on the approved plans, has been fully implemented and to require the retention and maintenance of the system thereafter.
19. A condition is also necessary in the interest of highways safety to ensure the proposed visibility splays are constructed, kept free from obstruction and maintained.

Conclusions

20. For the reasons given, the appeal should be allowed, subject to necessary conditions.

Ian Bowen

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 2244-PL-201, 2244-PL-202 Rev B, 2244-PL-203, 2244-PL-204.
- 2) All planting, seeding, turfing or earth moulding comprised in the approved details of landscaping (Landscape Proposals by Clark Landscape Design June 2017 and Drawing Nos. 2244-PL-203 and 2244-PL-202 Rev B) shall be carried out in the first planting and seeding season following the date of this decision; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 3) Use of the access shall cease until such time as a scheme for surface water drainage has been submitted to and approved in writing by the Local Planning Authority and fully implemented. The approved surface water drainage system shall thereafter be permanently retained and maintained in accordance with the approved scheme.
- 4) Use of the access shall cease until the access visibility splays shown on the approved plan (Drawing No. 2244-PL-202 Rev B) have been constructed. The splay areas shall thereafter be maintained in accordance with the approved plan and kept free from all obstructions over 0.9m in height above the carriageway.