Planning Inspectorate

Appeal Decision

Site visit made on 25 February 2025

by C Coles MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 JUNE 2025

Appeal Ref: APP/Z3825/D/24/3354659
Green Oaks Barn, Henfield BN5 9AX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Vlad Mihovilovic against the decision of Horsham District Council.
- The application Ref is DC/24/0173.
- The development proposed is new access to the highway.

Decision

1. The appeal is allowed and planning permission is granted for new access to the highway at Green Oaks Barn, Henfield, BN5 9AX in accordance with the terms of the application, Ref DC/24/0173, subject to the following 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 Location plan (26.12.2023), Site plan (21.02.202), Layout plan Plan View (Updated drawing August 2024), Email 7 August 2024 from Vladimir Mihovilovic to Shazia Penne, Geo Trax GC Installation Guide Rev 2, Geo Trax GC Product Sheet Rev 3.

   3) Pre-Commencement Condition: No development shall commence, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, until the following preliminaries have been completed in the sequence set out below:

   • All trees on the site shown for retention on approved drawing Layout plan Plan View (Updated drawing August 2024) as well as those off-site whose root protection areas ingress into the site, shall be fully protected throughout all construction works by tree protective fencing affixed to the ground in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012).

   • Once installed, the fencing shall be maintained during the course of the development works and until all machinery and surplus materials have been removed from the site.

   • Areas so fenced off shall be treated as zones of prohibited access and shall not be used for the storage of materials, equipment or machinery in any circumstances. No mixing of cement, concrete, or use of other materials or substances shall take place within any tree protective zone, or close enough

to such a zone that seepage or displacement of those materials and substances could cause them to enter a zone.

Any trees or hedges on the site which die or become damaged during the construction process shall be replaced with trees or hedging plants of a type, size and in positions agreed by the Local Planning Authority.

Preliminary Matter

2. The applicant submitted information to the Council prior to determination of the application, which was not considered by the authority when reaching its decision. The main parties subsequently agreed that this information should be considered as part of the appeal and the Council was given the opportunity to make comments, which I have duly taken into account. The information related to arboricultural mitigation works being proposed to address concerns raised by the Council tree officer. It included mention of a canopy which was not included in the description of development and may itself require planning permission. Accepting this additional element as part of the appeal scheme may prejudice interested parties by depriving them the opportunity to make comments, hence I have dealt with the appeal on the basis of the additional information submitted but not including the canopy.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area, with specific regard to effect on the mature trees.

Reasons

4. The proposed development is for a new vehicular access point off Wheatsheaf Road to serve an existing dwelling. The proposed access would result in the removal of one tree, the pollarding of two trees and development occurring within the Root Protection Area (RPA) of several trees indicated for retention. Wheatsheaf Road has a verdant, rural feel with the mature trees contributing to the established character of the area.

5. The new access would be located between two existing access points resulting in three accesses in quick succession. No objections to the new access have been received on highway safety grounds and provided the mature trees were retained as shown in the proposal, I consider there to be a neutral impact on the verdant character of the area from the creation of the new access.

6. The Council consider the proposed development could cause the trees within the RPA to suffer decline or loss as a result of the proposal which it does not consider necessary as there is an existing access to the site. The appellant has advised the existing access crosses through land belonging to a neighbour, can be difficult for large vehicles to manoeuvre and is frequently obstructed by parked vehicles. The appellants also want to turn the existing parking area into more private garden space away from the road.

7. The appellant's arboriculturalist advises the area of works within the RPA amounts to a small percentage of the RPA and proposes mitigation. No substantive evidence has been provided that the proposed construction method could not be utilised, or the proposed development would otherwise cause significant harm to the trees. Furthermore, given the context of the proposal and potential benefit to the appellants living conditions through increased useable garden area, and through a potential change to vehicular movements from Wheatsheaf Road, I find the justification for the access point provided by the appellant to be adequate.

8. Notwithstanding the above, the proposal could result in the trees being placed under pressure to be felled as a result of debris falling on cars parked under the tree canopy. The appellant has suggested a canopy could be provided to protect parked cars to mitigate this concern, however, the canopy does not form part of this appeal. Given the relationship of parked cars and trees, I consider that there is a high probability that there would be pressure to remove or heavily prune the trees which would harmfully affect the character and appearance of the area.

9. My attention has been drawn to the industrial property (Martha's Barn) adjacent to the appeal site where planning permission was granted for a new widened access direct to the highway, extension to hardstanding and the provision of 6 parking spaces. On my site visit I noted the character of Martha's Barn was more urban with large swathes of tarmac covering the site and sparse vegetation on the site frontage. The potential harm to the character of the area from the decline or loss of the mature trees at the appeal site must be considered against the backdrop of Martha's Barn. However, I find the urban appearance of Martha's Barn makes it more important to preserve the verdant feel of the wider area therefore every effort to retain the trees on the appeal site should be taken.

10. Overall, whilst mitigation could be sufficient to prevent harm to the trees in respect of development in their RPA, I conclude that owing to my concerns about future pressure to prune or fell the mature trees due to the likelihood that debris from the trees would fall on cars parked underneath, there would be harm caused to the character and appearance of the area. The proposal therefore conflicts with Policies 25, 32 and 33 of Horsham District Planning Framework November 2015 and Policy 12 of Henfield Neighbourhood Plan 2017-2031 which seek to protect the landscape character area and presume in favour of retaining important natural features.

Other Matters

11. The appellant has highlighted that the trees could be removed in their entirety as they do not benefit from Tree Preservation Orders (TPO) (which the Council have had the opportunity to apply for) or other protective measures. The appellant has stated a firm intention to retain the trees' existing state, and a specific desire to retain and preserve mature trees. However, given the appellant has raised the removal of the trees as an alternative option, there is a greater than theoretical possibility of it taking place.

12. In this case, the fallback position of removing the trees would be significantly more harmful than allowing the appeal scheme, which includes mitigation to retain the trees, notwithstanding future implications of falling debris outlined above. This is a material consideration of sufficient weight to weigh in favour of allowing the proposal, contrary to the development plan.

Conditions

13. In order to provide certainty, time limit and plans conditions are imposed. In the interests of protecting the longevity of the trees on site a condition requiring their protection is also imposed.

Conclusion

14. Whilst I have found in favour of the appellant in terms of development within the RPA, I have found harm in terms of the pressure to prune and fell the trees without provision of suitable protection for cars parked under the trees which could lead to a harmful effect on the verdant character and appearance of the area and conflict with the development plan when read as a whole. However, the fallback position is a material consideration with sufficient weight to allow the appeal contrary to the development plan. For the reasons outlined above the appeal should be allowed.

C Coles

INSPECTOR