



Appeal Decision

Site visit made on 7 May 2019

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: **Wednesday, 22 May 2019**

Appeal Ref: APP/V2255/W/19/3221986

Broadoak Farm, Broadoak Road, Milstead ME9 0RS

- 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 Matt Brown against the decision of Swale Borough Council.
 - The application Ref 18/505773/FULL, dated 3 November 2018, was refused by notice dated 14 January 2019.
 - The development proposed is to construct a proposed replacement driveway to the farmhouse, via the adjoining paddock. Note that the paddock has an existing agricultural gateway and established access onto Broadoak Road, which will be re-used. The proposed new driveway constitutes a 'change of use' of that part of the paddock (i.e. the footprint of the driveway) to residential use.
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Decision

1. The appeal is allowed and planning permission is granted to construct a proposed replacement driveway to the farmhouse, via the adjoining paddock. Note that the paddock has an existing agricultural gateway and established access onto Broadoak Road, which will be re-used. The proposed new driveway constitutes a 'change of use' of that part of the paddock (i.e. the footprint of the driveway) to residential use at Broadoak Farm, Broadoak Road, Milstead ME9 0RS, in accordance with the terms of the application Ref 18/505773/FULL, dated 3 November 2018, subject to the conditions in the attached schedule.

Procedural Matter

2. During my site visit I observed that the construction of the proposed driveway had begun.

Main Issue

3. The main issue is whether or not the proposed driveway would have an adverse effect on the character of the countryside.

Reasons

4. Broadoak Farm, a dwelling house, forms part of a group of former related farm buildings, which now appear to be mainly in residential use. The dwelling is visually prominent, though set well back from the Broadoak Road. Between the dwelling and the main highway is a flat open field, which is described by the appellant as a paddock. There is an existing driveway which leads from the dwelling directly to Broadoak Road. The site is located outside of any defined built up area.

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Appeal Decision APP/V2255/W/19/3221986

5. Broadoak Farm is located within the Tunstall Farmlands Dry Valley and Downs Landscape Area as defined within the Swale Landscape Character and Biodiversity Appraisal (2011) (SWLCBA) and consequently any development should seek to conserve and restore the landscape quality. A copy of the SWLCBA was not submitted as evidence.
6. The development proposed would construct a new driveway from Broadoak Road, at a point which appears to have been previously used for access to the area described as the paddock. It would lead directly to a hardstanding at the front of the dwelling. The appellant proposes to create a small orchard, by planting fruit trees, between the dwelling, the proposed driveway and Broadoak Road.
7. The Council asserts that the proposed driveway would have an adverse visual effect on the countryside. and that the change of use of the paddock area, which it regards as an extension to the dwelling's amenity area, would be at odds with the surrounding area where most properties have their outdoor living area to the rear of the property.
8. Whilst the development proposed would alter the current appearance of the area, based on my own observations, due to the topography of the land, the proposed new driveway would be partially obscured by the proposed landscaping and planting of a new orchard which would significantly mitigate any visual effect on the character of the surrounding landscape
9. Moreover, the proposed planting of an orchard between the road and the dwelling would enhance the setting of the wider landscape, which is not disputed by the parties and therefore would be a benefit to the SWLCBA.
10. The council has concerns that the change of use of the paddock area would extend the dwellings outdoor living area in a way that would be at odds with the surrounding area, where most properties have their amenity space to the rear of the property. Based on observations during my site visit and due to the appeal sites rural location which has a diversity of property types in the surrounding area, there is no prevailing pattern of plot composition with the layout of many of the dwellings not conforming to the more linear form of development, which would have outdoor living space at the rear of the property. Therefore, the development proposed would not appear to be at odds with the surrounding area and would not have an adverse effect on the character of the surrounding countryside.
11. Whilst I note the concerns regards the location of the driveway and its effect on highway safety, the highways authority has not raised any concerns. However, as I am allowing the appeal, I am imposing conditions to ensure the development proposed has no impact on highway safety.
12. I conclude that the development proposed would not have an adverse impact on the character of the countryside and would not be contrary to policies DM13 and DM24 of the Swale Borough Local Plan Bearing (2017), which amongst other things seek to ensure new development does not result in harm to the landscape.

Appeal Decision APP/V2255/W/19/3221986

Conditions

13. The Council has proposed a number of conditions which I have assessed against the advice provided in Planning Practice Guidance and have amended as necessary.
14. Conditions imposed are: 1) is the statutory commencement date; 2) for the avoidance of doubt and to ensure a satisfactory form of development; 3) in the interests of safeguarding the visual character of the surrounding area; 4);5) and 6) in the interests of safeguarding the visual character of the surrounding area and encouraging wildlife and biodiversity; 7) and 8) in the interests of highway safety.

Other Matters

15. I note that reference has been made to the proposed development's effect on the setting of a listed building. Whilst the appellant has stated that Historic England has de-listed Broadoak Farm, no evidence was submitted to support this and as the Council had not raised this as a matter of concern I have not pursued it any further.

Conclusion

16. For the reasons set out above, the appeal is allowed.

Paul Wookey

INSPECTOR

Appeal Decision APP/V2255/W/19/3221986

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plan: 665- 01 Prop New Driveway Broadoaks Site Plan.
- 3) Prior to installation details of the entrance gates shall be submitted to and approved in writing by the Local Planning Authority and works shall be implemented in accordance with the approved details.
- 4) Before any further works commence full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.
- 6) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
- 7) Before any further works commence a detailed plan showing adequate sight lines shall be submitted to and approved in writing by the Local Planning Authority. The sight lines shall be provided before first use of the driveway and thereafter maintained clear of any structure, tree, plant or other obstruction which exceeds 0.6m above carriageway level within the approved sight lines.
- 8) No gates shall be set within 5.5m of the carriageway edge on Broadoak Road.

End of Schedule