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## Appeal Decision

Site visit made on 19 January 2021

**by A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 08 February 2021**

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**Appeal Ref: APP/U1105/D/20/3261816**

**Abbotsford, Longmeadow Road, Lymptone EX8 5LE**

- 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 Ian Connock against the decision of East Devon District Council.
  - The application Ref 20/0988/FUL, dated 13 May 2020, was refused by notice dated 14 October 2020.
  - The development proposed is the creation of a means of access to a highway (part retrospective).
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### Decision

1. The appeal is allowed and planning permission is granted for the creation of a means of access to a highway at Abbotsford, Longmeadow Road, Lymptone EX8 5LE, in accordance with the terms of the application Ref: 20/0988/FUL, dated 13 May 2020, subject to the conditions on the attached schedule.

### Procedural Matters

2. The planning application form describes the development as “(part retrospective)” and I saw on my site visit that the part of a boundary wall had been demolished and part of the proposed means of access had been provided. I have therefore considered the appeal on this basis.

### Main Issues

3. The main issues in this appeal are:
  - The effect of the proposed development on highway safety; and,
  - The effect of the proposed development on trees.

### Reasons

#### *Highway Safety*

4. Policy TC7 of the East Devon Local Plan 2013-2031 (the Local Plan) (2016) indicates that planning permission will be withheld for development if the proposed access, or the traffic generated by it, would be detrimental to the safe and satisfactory operation of the local or wider highway network. In this regard, it appears from the submissions made that the Council are concerned that the proposed works to create an access point onto Longmeadow Road would be located close to a road junction and thereby would have an adverse effect on highway safety.

5. The submissions indicate that prior to works to create a new point of vehicle access onto Longmeadow Road, the property provided pedestrian access onto that road from a gate which was incorporated within the boundary wall. The appeal scheme proposes the widening of the newly created vehicle access. The Appellant has put it to me that alterations to the wall and the inclusion of proposed porous surfacing mesh would be permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO).
6. Notwithstanding the potential fallback under the GPDO as referred to by the Appellant, it is noted that the original pedestrian access onto Longmeadow Road was located at the junction with Stone Lane, and that the appeal scheme seeks to provide access away from that junction, albeit by approximately three metres.
7. The evidence before me indicates that the number of trips generated from the appeal proposal would not be significant. As I observed on my site visit, traffic speeds within Longmeadow Road and close to the junction were slow, with the width of the constrained carriageway requiring that vehicles approach at slow speeds. Stone Lane is a narrow single track lane and I saw on my visit that a vehicle emerging from that lane would have to encroach significantly into Longmeadow Road before having adequate visibility in both directions, due to vegetation and boundary treatments including the remaining stone wall at the appeal property.
8. The appeal proposal to widen the existing point of access onto Longmeadow Road would not alter the position with regards to vehicles emerging from Stone Lane having to significantly encroach before having adequate visibility, especially to the southeast and down Longmeadow Road. The appeal proposal provides that vehicles emerging from the appeal site could do so in forward gear and, in my view, would have good levels of visibility in both directions and with regards to vehicles encroaching and emerging from Stone Lane.
9. In light of the above, and based on the evidence before me and observations made on my site visit, the appeal proposal to widen the existing point of access onto Longmeadow Road would not be likely to increase opportunity for conflict between vehicles, and between vehicles and pedestrians and would not have a harmful effect with regards to highway safety. The appeal scheme would not be detrimental to the safe and satisfactory operation of the local or wider highway network and, consequently, would comply with Policy TC7 of the Local Plan.

#### *Trees*

10. Policy D3 of the Local Plan broadly seeks to ensure that there is no net loss in the quality of trees or hedgerows resulting from an approved development. Consultations on the proposed development were provided by the Council's Tree Officer who concluded that works on the part of the access which had already been completed were deemed to be acceptable. However, concern was raised with regards to the proposed widening of the access and the potential impact on trees which form part of a hedge adjacent to the boundary wall.
11. The evidence before me does not confirm that any trees at the site affected by the proposal are subject to a Tree Preservation Order. The Council has raised concern that there is a possibility that the root protection area of trees could be affected by the proposal, as no tree survey was submitted in support of the

planning application. However, from the evidence before me and from observations made on my site visit, it does not appear that the hedge or the saplings which it currently contains, makes any significant positive contribution to the character or appearance of the surrounding area nor, in my view, would have significant amenity value. In the absence of any substantive reasons why the removal of the trees at the site would result in harm, it would not be justified to refuse planning permission on these grounds.

12. In light of the above, I conclude that there would be no net loss in the quality of trees or hedgerow resulting from the proposed scheme. The appeal proposal would therefore not conflict with Policy DE3 of the Local Plan. For the same reasons, I also find no conflict with the policies of the Lymington Neighbourhood Plan in this regard.

### **Other Matters**

13. The planning history for the appeal site is acknowledged and, in this respect, I have noted the comments and information regarding the potential impact of the proposal on the character and appearance of the Lymington Conservation Area. Whilst it is acknowledged that the appeal site is located outside of the Conservation Area, it is nonetheless adjacent to it and, in my view, the stone wall contributes somewhat positively to the setting of the Conservation Area. In this regard, it is noted that the appeal proposal includes provision of a timber gate to create a physical and visual barrier to Longmeadow Road and, in my view and subject to a condition regarding the colour of the proposed gate, would preserve the sense of enclosure at this location and, thereby, would result in no harm to the character or appearance of the Conservation Area.

### **Conditions**

14. In addition to the standard three year period implementation condition, which is a statutory requirement, it is necessary, in the interest of certainty and precision, to define the plans with which the appeal scheme should accord. In the interests of protecting the character and appearance of the surrounding area including the setting of the Lymington Conservation Area, I am attaching a condition requiring materials and colours used in the construction of the proposed timber gates be submitted to and approved by the Council. Furthermore, in the interests of highway safety, I find it reasonable and necessary to include within that condition, that details of the method of opening be provided and agreed by the Council.

### **Conclusions**

15. For the reasons given above, the appeal succeeds and planning permission is granted subject to the conditions identified.

*A Spencer-Peet*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby approved shall in all respects accord strictly with drawing numbers: 1115.01A Alteration to Entrance Gate, 1115.02A Vehicular Tracking and 1115.03 Proposed Block Plan received by the Local Planning Authority on 28 July 2020 and Location Plan received by the Local Planning Authority on 14 May 2020.
- 3) Within 3 months of the date of this permission, details of the materials to be used in the construction of the proposed timber gates hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The details to be provided must include reference to size, colour, fixings and method of opening. Development shall be carried out in accordance with the approved details.