

APPLICATION NO.	P16/S2811/FUL
APPLICATION TYPE	FULL APPLICATION
REGISTERED	17.8.2016
PARISH	Nuffield
WARD MEMBERS	David Nimmo-Smith Charles Bailey
APPLICANT	Mr Darren Coope
SITE	Land on the north side of the A4130 near Oakley Wood, Springfield Park, Nuffield
PROPOSAL	Creation of a new vehicular access (retrospective) (As amended by location/block plan and technical note attached to the agent's email dated 17 October 2016).
AMENDMENTS	As above
GRID REFERENCE	465152/188822
OFFICER	Rob Cramp

1.0 **INTRODUCTION**

- 1.1 The application has been submitted following an enforcement investigation (SE16/287) into the unauthorised creation of an access onto a classified road without planning permission. The application seeks part retrospective planning permission for the retention of the newly created access, with proposed modifications to comply with the requirements of the local highway authority.
- 1.2 The application is referred to the planning committee for decision as the officer's recommendation differs from that of the Parish Council.

2.0 **PROPOSAL**

- 2.1 The proposed access is to a parcel of land having an area of approximately 0.25 ha. It is situated in the open countryside in the Chilterns Area of Outstanding Natural Beauty (AONB). It is on the northern side of the A4130 approximately midway between Wallingford and Nuffield (see location plan **attached** as Appendix A).
- 2.2 The application site is a remnant parcel of agricultural land with no current use. The boundaries of the site are defined by open post and wire fencing of agricultural character and appearance. It is surrounded on all sides by open agricultural fields in different ownership. The north eastern boundary is adjoined by an unmade track on the neighbouring agricultural property which also serves as a public footpath. The land has recently been cleared of vegetation and an access onto the A4130 created approximately midway along its highway frontage. According to the applicant the access is required for purposes of maintenance of the land only. The A4130 is described by the local highway authority as being a busy and fast classified road.
- 2.3 The application also provides for the erection of a gate at the entrance to the site and the laying of a metalled surface from the edge of the carriageway to the gated entrance.
- 2.4 The application is supported by a Technical Note prepared by a transport consultant (i-Transport) addressing highway safety issues within an assessment area extending 750m either side of the application site. The findings of the Technical Note can be summarised as follows:
- there are two similar accesses in close proximity, which serve slow moving agricultural vehicles in connection with agricultural lands on either side of the

- application site;
- there have been no injury accidents within the assessment area in the past 5 years notwithstanding the presence of these other accesses;
- the proposed access has sufficient width (5.5m) for two large vehicles to pass;
- visibility splays (2.4m x 215m) compliant with highway design requirements are capable of being provided;
- a proposed gate at the entrance to the site will be set back 9.0m from the edge of the highway to allow sufficient space for a maintenance vehicle with trailer to turn off the highway and park before opening the gate;
- swept path analysis demonstrate adequate manoeuvring space to and from the highway; and
- expected traffic generation for purposes of maintenance only are expected to be low.

The overall conclusion of the transport consultant is that “the proposed access delivers safe access to the site in accordance with design standards”.

- 2.5 A copy of the plans accompanying the application is **attached** as Appendix B. Other documentation associated with the application can be viewed on the council’s website at www.southoxon.gov.uk.

3.0 SUMMARY OF CONSULTATIONS & REPRESENTATIONS

3.1 Nuffield Parish Council – **Objects** for the following reasons:

- a deemed application for vehicular access to this site was rejected in an appeal decision in 1979;
- the road has become busier since the above application was refused;
- 5 year accident record insufficient for assessment of highway safety;
- 8 fatal accidents have occurred in past 10 years on A4130 within 1 mile either side of the application site;
- loss of wildlife haven with the recent clearance of the land;
- land not big enough for a small holding and therefore no requirement for access;
- other existing accesses in the area are essential to agricultural use of adjoining lands; and
- the adjoining accesses resulted in a fatality about 10 years ago.

3.2 Highways Liaison Officer (Oxfordshire County Council) – **Approve** subject to conditions for the following reasons:

- visibility splays are to be provided in accordance with recognised standards;
- access gate is to be set back sufficient distance to allow vehicles to pull off highway clear of carriageway;
- access proposed for maintenance only, which will likely result in a low number of movements;
- proposal is unlikely to have significant adverse impacts on the highway network or cause “severe harm” as referred to in the National Planning Policy Framework.

3.3 Neighbours – Two letters of **Objection** for the following reasons:

- very dangerous and fast section of road;
- the road is even more dangerous than when a similar application for access was refused in 1979;
- a fatality occurred on the adjacent road in 2003;
- 5 year accident record insufficient to assess highway safety risk;
- a fatal accident occurred on the A4130 not more than 3 months ago less than a mile from the application site;
- a dip in the road creates blind spot.

4.0 RELEVANT PLANNING HISTORY

- 4.1 On 20 January 1972 the council refused a planning application (P71/H0854) for a proposed cottage and small holding, including the creation of an access. The application was refused on the basis of the adverse impact on the landscape, countryside and highway safety.
- 4.2 On 8 July 1974 the council refused a planning application (P74/S0028/O) for the erection of a cottage, including access. The application was refused on the basis that it was contrary to general planning policy and would adversely impact on the landscape, countryside and highway safety.
- 4.3 On 18 April 1977 the council refused a planning application (P77/S0162) for vehicular access to the site for agricultural purposes. The application was refused for highway safety reasons.
- 4.4 On 19 April 1977 the council issued a planning enforcement notice (76265) to require the closure of an unauthorised access onto the site. The notice was complied with.
- 4.5 In April 1979 the council issued a series of 5 separate enforcement notices (78293, 79100, 79101, 79102 and 79103) relating to various breaches of planning control including:
- use of land for the housing and exercising of dogs (P79/S0382/DA);
 - erection of dog runs (P79/S0383/DA);
 - stationing of a caravan (P79/S0384/DA);
 - erection of two buildings (P79/S0385/DA); and
 - formation of a vehicular access (P79/S0386/DA).

All of the enforcement notices were subsequently upheld on appeal in a decision dated 19 September 1980. The enforcement notices were all complied with.

- 4.6 In November 1982 the council issued a series of 5 separate enforcement notices (80237C, 80237D, 82032A, 82032B and 82032E) relating to various breaches of planning control including:
- unauthorised building operations,
 - use of the land for the siting of various structures;
 - use of land for storage of derelict vehicles, scrap appliances, discarded furniture and furniture;
 - use of the land for residential accommodation;
 - use of building as a single dwelling house.

The enforcement notices were all complied with.

- 4.7 On 13 June 2016 the council commenced an enforcement investigation (SE16/287) into the creation of the current access without planning permission. The current application now seeks to regularise this breach of planning control.
- 4.8 On 15 November 2016 the council commenced an enforcement investigation (SE16/577) into the depositing of spoil and undertaking of earthworks on the site without planning permission.

5.0 **POLICY & GUIDANCE**

- 5.1 South Oxfordshire Core Strategy (SOCS) policies;
CS1 - Presumption in favour of sustainable development
CSEN1 - Landscape protection
- 5.2 South Oxfordshire Local Plan 2011 (SOLP) policies;
G2 - Protect district from adverse development
G4 - Protection of Countryside
T1 - Safe, convenient and adequate highway network for all users
- 5.3 National Planning Policy Framework (NPPF) and Practice Guidance

6.0 **PLANNING CONSIDERATIONS**

- 6.1 The main issues to be considered in the assessment of the current application are:
- highway safety impacts;
 - impacts on the countryside and landscape of the AONB; and
 - other material considerations.

Highway Safety

- 6.2 Policy T1 of the SOLP states that proposals for all types of development will, where appropriate, provide safe and convenient access to the highway network. This is consistent with government guidance contained in the NPPF which states that planning decisions should take account of whether safe and suitable access can be achieved for all people.
- 6.3 Objectors to the current proposal, including the Parish Council, have referred to previous decisions by the council to refuse planning permission for the creation of an access to this site for highway safety reasons. This occurred in 1972, 1974, 1977, and 1979. It is worthy of note, however, that in most of these cases the proposed creation of the access coincided with the development and use of the site for a variety of other purposes to which there were planning objections. In the circumstances of the current case, however, the access is proposed to facilitate the maintenance of the land only.
- 6.4 Much has also changed in terms of planning policy since those decisions to refuse planning permission for an access to the site were taken back in the 1970's. The introduction of the NPPF and the related Practice Guidance is perhaps the most significant change. Under the NPPF the relevant test for assessing whether the residual transport impacts of a development are sufficient to warrant refusal, is if those impacts are likely to be "severe". The local highway authority has assessed the current proposal and advised that it is unlikely to have a significant adverse impact on the highway network. The reasons unpinning this advice are outline in the highway authority's submission which is summarised in paragraph 3.2 above.
- 6.5 Objectors have also questioned the adequacy of the transport consultant's analysis of the injury and accident record over a period of 5 years only, in his assessment of highway safety issues. Objectors refer to various accidents that they are aware of covering a period of 10 and more years. The consultant's 5 year analysis, however, is entirely consistent with government guidance as specifically referred to within the NPPF Practice Guidance notes. The adequacy of this analysis has also been confirmed by the local highway authority.
- 6.6 Objectors to this proposal are rightly concerned about the highway safety impacts relating to the creation of a vehicular access onto a fast moving and busy section of country highway. However, the highway safety implications of not allowing a safe means of access to the site should also be of concern to the council in its assessment of this proposal. The inability of the owner to safely enter the site by a properly

constructed access complying with relevant highway standards could represent an even greater danger to highway safety. This remains true even if the access is only required for purposes of periodic maintenance of the land, which is not an unreasonable expectation by the owner.

- 6.7 The proposed development is therefore compliant with Policy T1 of the SOLP and government guidance contained in the NPPF relating to the appropriate assessment of transport impacts of the development.

Countryside, Landscape and AONB

- 6.8 Policy CSEN1 of the SOCS seeks to protect the district's landscape character against inappropriate development, with particular priority being given to conserving and enhancing AONBs. This is consistent with the NPPF which places great weight on conserving the landscape and scenic beauty of AONBs. Policy G2 of the SOLP seeks to protect the district's countryside from adverse development; and Policy G4 seeks to protect the countryside for its own sake.

- 6.9 The current application relates to the creation of a highway access to the land for purposes of maintenance only. This involves a minor realignment of the existing fence line, the installation of a gate and the grading and laying of a metalled surface from the edge of the highway to the gated point of entry. Some cutting back of vegetation on the eastern approach to the site will also be required in order to maintain an appropriate vision splay.

- 6.10 The extent of these works, however, has not and will not result in any significant impact on the character or appearance of the countryside, the landscape or the scenic beauty of the AONB.

Other Material Considerations

- 6.11 The creation of the access, which is the subject of the current application, has coincided with recent works undertaken by the owner to clear the land of all existing vegetation. The application site, however, is not subject to a tree preservation order and the clearance of the site by the owner did not require planning permission and did not constitute a breach of planning control. These works therefore have no relevance to the assessment of the current application for the creation of an access for purposes of maintenance of the land only. The Parish Council's objection to the current application on the basis of the loss of wildlife habitat is therefore also of no relevance to the current application.

- 6.12 During the course of the assessment of the current application an enforcement investigation (SE16/577) has commenced into the depositing of spoil and undertaking of earthworks on the site without planning permission. This investigation will run its course and, if a breach of planning control is found to have occurred, the impacts of that breach will be assessed against the relevant planning policies and appropriate action taken. The Planning Committee, however, should resist being influenced in its assessment of the current application by the knowledge that the site is currently being investigated for other alleged breaches of planning control. The Planning Committee should limit its consideration to the matter which is the subject of the current application, namely the creation of an access for the purposes of maintaining the land only.

7.0 CONCLUSION

- 7.1 The proposed creation of a highway access to the application site is compliant with relevant policies and government guidance relating to the impacts of the development on highway safety, the countryside, the landscape and the AONB.

8.0 **RECOMMENDATION**

8.1 To grant planning permission subject to the following conditions and advisory note:

1. **That the development hereby approved shall be carried out in accordance with the details shown on location and block plan drawing No.161404-01 Revision B, except as controlled or modified by conditions of this permission.**

Reason: To secure the proper planning of the area in accordance with Development Plan policies.

2. **Within three months of the grant of this permission the proposed means of access onto the A4130 is to be fully formed and laid out and constructed strictly in accordance with the local highway authority's specifications and all ancillary works specified shall be undertaken.**

Reason: In the interest of highway safety in accordance with policy T1 of the South Oxfordshire Local Plan.

3. **Within three months of the grant of this permission the proposed vision splay shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the local planning authority and the vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding or growing above 0.6 metres as measured from carriageway level.**

Reason: In the interest of highway safety in accordance with policy T1 of the South Oxfordshire Local Plan.

4. **Any gates provided shall be set back a minimum of 9.0 metres from the edge of the carriageway and shall open inwards into the site. The details of the gates and related fencing proposed to be installed in connection with the creation of the access, of an open agricultural design and appearance, shall be submitted to and approved by the local planning authority prior to installation. Thereafter the gate and fence shall be maintained as approved except with the permission of the local planning authority, notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development Order) 2015 (or any Order revoking or re-enacting that Order).**

Reason: In the interests of highway safety and the visual amenity of the countryside, landscape and Chilterns Area of Outstanding Natural Beauty in accordance with policies G2, G4 and T1 of the South Oxfordshire Local Plan and policy CSEN1 of the South Oxfordshire Core Strategy.

Advisory - No permission is given or implied for any development within the site beyond the entrance gate, including the creation of any hardstanding or all weather surface, for which separate planning permission is required.

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