

Ward Woodbury And Lymphstone

Reference 21/0908/VAR

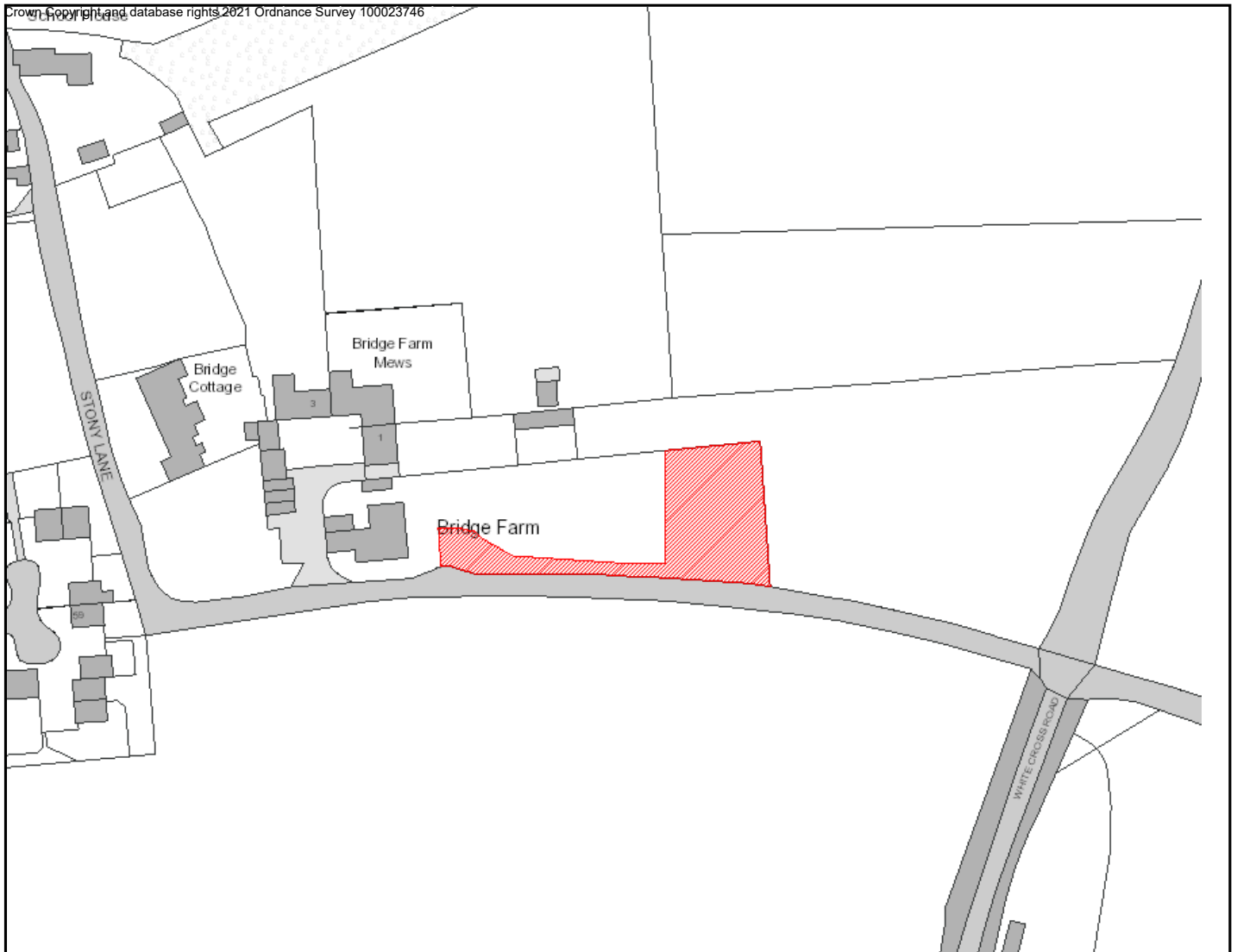
Applicant Mr Tom Buxton-Smith

Location Bridge Farm Stony Lane Woodbury Salterton Exeter EX5 1PP

Proposal Variation of condition 2 (approved plans) and removal of condition 3 (closure of access and reinstatement of hedge) of planning permission 20/0568/VAR to allow the retention of the temporary access onto Stony Lane



RECOMMENDATION: Refusal



		Committee Date: 14th June 2021
Woodbury And Lympstone (Woodbury)	21/0908/VAR	Target Date: 03.06.2021
Applicant:	Mr Tom Buxton-Smith	
Location:	Bridge Farm, Stony Lane, Woodbury Salterton	
Proposal:	Variation of condition 2 (approved plans) and removal of condition 3 (closure of access and reinstatement of hedge) of planning permission 20/0568/VAR to allow the retention of the temporary access onto Stony Lane	

RECOMMENDATION: Refusal

EXECUTIVE SUMMARY

This application is before Members because the applicant is a member of staff of East Devon District Council, and the Officer recommendation is contrary to the views of a Ward Member.

Planning permission is sought to vary condition 2 (plans condition) and to vary condition 3 (closure of access) of approval granted under reference 20/0568/VAR to allow the retention of an unauthorised access which has been formed onto Stony Lane.

The formation of an access in this location has been previously considered and found to be unacceptable, having been dismissed on appeal on two separate occasions. It is not considered that there have been any material change in circumstances which would overcome the previous reasons for refusal, and that the visual harm arising from the development would outweigh any potential benefits of the proposal. Whilst support from local residents is acknowledged on the basis that the access creates a passing place, County Highways state that visibility at the access is substandard, although they would support the retention of the mouth of the access as a passing place.

The application is therefore recommended for approval.

CONSULTATIONS

Local Consultations

Woodbury And Lymptstone - Cllr Geoff Jung

I need to declare a personal interest as the applicant is an employee for the local authority and therefore, I know the applicant.

I have read the documents for the variation 21/0908/VAR for the removal of condition 3 (closure of access and reinstatement of hedge) of planning permission 20/0568/VAR to allow the retention of the temporary access onto Stony Lane at Bridge Farm Stony Lane Woodbury Salterton.

There is a substantial history for the single dwelling development which was approved some 4 years ago prior to the adoption of our local plan, and therefore at the time was within the approved built-up area boundary of the village of Woodbury Salterton.

The application was approved but subject to several conditions, which condition 3 required the temporary access to be filled in and a new drive access built through the front garden of the 'parent' house Bridge Farm requiring several mature trees to be felled.

In previous applications I had always supported the access coming off Stony Lane through the boundary hedge that formed the curtilage of garden for Bridge farm and I could never understand how in planning terms we could insist to retain a residential boundary hedge in a location that is neither listed or in a conservation area.

I understand that Highways did not object to the entry in this position and there is substantial local support for the retention of this driveway which provides a welcome pull-in along this long narrow lane.

The proposal is to improve and enhance the entry to blend better into the surroundings plus an extra amount of hedge planting treatment to the boundaries of the new house. In the last few years, we have learnt a lot about the damage a development has on the biodiversity, but this variation will help offset the net loss considerably.

I therefore again support the proposal and to retain the driveway and I reserve my final views on this application until I am in full possession of all the relevant arguments for and against

Further comments:

Thank you for the report. I note the recommendation is to refuse, but as the report states this is a finely balanced decision, I feel that this application should be allowed.

Parish/Town Council

SUPPORT.

Technical Consultations

Devon County Highway Authority

Observations:

The access in question for condition 3 has been reviewed in two previous planning applications and has been found to be of poor visibility for permanent use, whilst I appreciate it creates a useful passing place for Stony Lane, the County Highway Authority would be happy to review the possibility for maintaining the access bell-mouth as a passing place only, as parallel visibility is much greater than a vehicle entering and existing at this point as an access.

Recommendation:

THE HEAD OF PLANNING, TRANSPORTATION AND ENVIRONMENT, ON BEHALF OF DEVON COUNTY COUNCIL, AS LOCAL HIGHWAY AUTHORITY, RECOMMENDS THAT PERMISSION BE REFUSED FOR THE FOLLOWING REASONS

1. The proposed development would be likely to result in an access which does not provide adequate visibility from and of emerging vehicles, contrary to page 32 of the National Planning Policy Framework.

EDDC Trees

I would support and re-iterate the comments made by David Lomas in relation to the previous application.

"I have concerns on arboricultural grounds with this development because there are a large number of good quality trees being felled to develop the new roadway for no arboricultural reason and no replacements offered or a better alternative investigated i.e. the existing opening."

The current (unauthorised) access is preferable as it does not impact on the existing mature trees at the site unlike the permitted proposed access route.

I therefore support this variation of condition application.

Other Representations

20 representations have been received in respect of the proposed development all supporting the submissions. In addition a petition supporting the retention of the entrance has been submitted with 16 signatures, and a further digital petition with 151 signatures.

PLANNING HISTORY AND BACKGROUND

Outline planning permission was refused in 2014 (reference 14/1161/OUT) for the development of the site on the basis of it is unsustainable location and the impact which the formation of the proposed access onto Stony Lane would have on the character and appearance of the area and potential impact on protected species. In dismissing the subsequent appeal the Planning Inspector found that the site was sustainably located, however found that the formation of the proposed access, with suitable visibility would "*leave a significant, urbanizing and harmful visual mark on the local scene to its detriment*". The Inspector suggested that the use of the existing access from Stony Lane should be further explored as it would prove far less visually harmful.

Outline planning permission for a new dwelling, served by a joint access with Bridge Farm was approved in February 2015. (Reference 14/2969/OUT)

A new access was formed from Stony Lane in 2015 with a subsequent application seeking retention of this submitted under reference 15/1492/FUL. This application proposed widening the access which had been formed to provide visibility splays which would meet highway safety standards, however it was refused on the basis of

the significant, urbanizing and harmful visual impact arising from the proposed development. A subsequent appeal was dismissed, with the Inspector finding that the proposed access would result in harm to the character and appearance of the countryside.

An application for the approval of the reserved matters of the outline consent granted under 14/2969/OUT was submitted under reference 17/0990/RES which was approved by notice dated 25 August 2017. This application included the retention of the access which had been previously created to be used during the construction period, but which was to be permanently closed prior to the occupation of the dwelling. Condition 3 of the decision notice stated:

“Notwithstanding the submitted information and prior to the commencement of the development hereby permitted, details of the proposed works to permanently close the unauthorised access created in the south eastern corner of the site onto Stony Lane, and to reinstate the hedge boundary shall have been approved in writing by the Local Planning Authority; and the dwelling shall not be occupied until the agreed works have been undertaken in accordance with the approved details.

(Reason - To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 - Adequacy of Road Network and Site Access of the Adopted East Devon Local Plan 2013-2031.)”

Subsequent to the reserved matters approval two further application to vary the approved design and layout of the proposed dwellings have been submitted and approved under references 19/0868/VAR and 20/0568/VAR. Both of these approvals included a condition requiring the permanent closure of the access onto Stony Lane prior to the occupation of the new dwelling. Condition 3 of both of these approvals was worded differently to that of the reserved matters application to reflect the details and methodology demonstrating how the closure of the access would be undertaken. The amended wording of the conditions is detailed below:

19/0868/VAR

“The dwelling hereby approved shall not be occupied until the works to permanently close the unauthorised access created in the south eastern corner of the site onto Stony Lane shall have been undertaken in accordance with the Hedge Reinstatement works specified in Document reference R2451AL-DV prepared by A.M. Lane Ltd, dated 28.05.19 and received by EDDC on 31 May 2019. The access shall thereafter remain closed in perpetuity.

(Reason - To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan 2013-2031.)”

20/0568/VAR

“The dwelling hereby approved shall not be occupied until the works to permanently close the unauthorised access created in the south eastern corner of the site onto Stony Lane shall have been undertaken in accordance with the Hedge Reinstatement works specified in Document reference R2451AL-DV prepared by A.M. Lane Ltd, dated 28.05.19 and received by EDDC on 31 May 2019, in respect of the approval

granted under reference 19/0868VAR. The access shall thereafter remain closed in perpetuity.

(Reason - To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan 2013-2031.)”

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 7 (Development in the Countryside)

D1 (Design and Local Distinctiveness)

D2 (Landscape Requirements)

D3 (Trees and Development Sites)

EN22 (Surface Run-Off Implications of New Development)

TC2 (Accessibility of New Development)

TC7 (Adequacy of Road Network and Site Access)

TC9 (Parking Provision in New Development)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

National Planning Practice Guidance

Site Location and Description

The application site comprises part of the garden associated with Bridge Farm which is located to the west of the site, and which is sited within the open countryside beyond the eastern edge of the village of Woodbury Salterton.

A new dwelling is currently under construction on the site, with an access having been formed in the southern boundary onto Stoney Lane.

Proposed Development

Planning permission is sought to vary condition 2 and remove condition 3 of permission granted under reference 20/0568/VAR to allow the access onto Stony Lane to be retained on a permanent basis, the previously approved driveway to be removed from the plans and a new amended drive arrangement to serve the new dwelling.

Condition 2 related to the approved plans, with the revised plans reflecting the proposed alterations to the layout of the site, access and driveway.

Condition 3 states:

The dwelling hereby approved shall not be occupied until the works to permanently close the unauthorised access created in the south eastern corner of the site onto

Stony Lane shall have been undertaken in accordance with the Hedge Reinstatement works specified in Document reference R2451AL-DV prepared by A.M. Lane Ltd, dated 28.05.19 and received by EDDC on 31 May 2019, in respect of the approval granted under reference 19/0868VAR. The access shall thereafter remain closed in perpetuity.

(Reason – To ensure that the unauthorised access is permanently closed in the interests of highway safety and visual amenity in accordance with the requirements of Policies D1 (Design and Local Distinctiveness) and TC7 (Adequacy of Road Network and Site Access) of the Adopted East Devon Local Plan 2013-2031).

This application does not seek any alterations to the design of the dwelling under construction.

ANALYSIS

The main issues to be considered in the determination of this application relate to the implications of retaining the access onto Stony Lane; including any visual or highway safety impact, and whether any material changes have occurred which would now make its retention acceptable.

Acceptability of retaining the access

As the previous planning history of the site has demonstrated, the impact of creating an access has been ongoing since development of the application site was first proposed. Throughout the process significant concerns have been presented relating to the visual harm caused by the formation of the access, with two Planning Inspectors having considered it and found it to be unacceptable. In planning terms there is not considered to be any material alteration to planning policy which would allow the access to be retained.

It is noted that a highway safety concern has been raised due to the limited width of the access and lack of visibility splays. This is based on the access which exists which fails to meet highway standards. The previous applications were not refused on highway safety grounds because visibility splays complying with the required standards were indicated on the plans, the creation of which further compounded the visual impact of the widened access.

The response from the Councils Arboricultural Officer is also noted, however the issue of the balance between the removal of trees within the site and the visual impact arising from the creation of the access was addressed in both of the appeal decisions. In respect of the appeal relating to the retention of the access the Inspector considered that whilst finely balanced the loss of some trees within the site would be outweighed by the significant loss of hedgerow, and subsequent visual impact, to make way for the enlarged access. With regard to the current application, there is the added harm from inadequate visibility for vehicles.

In considering the current application, the balance is between retaining an access which is substandard in highway safety terms and which has a detrimental visual impact on the character and appearance of this part of Stony Lane, and the convenience of the future occupiers of the dwelling, and the retention of a number of

trees on the site. In this respect the findings of the previous Planning Inspectors are considered to remain valid and that the access should be removed and the hedgerow reinstated. The Inspector for the second dismissed appeal stating the following:

'My colleague's decision states that the provision of a safe access with the appropriate visibility splays could be provided, but at an unacceptable environmental cost, both visually and possibly in ecological terms, as a substantial length of hedgerow would have to be removed, with a partial translocation to a position to the rear of the visibility splays.

The alternative would be to use the existing access serving Bridge Farm, as a joint access for the host dwelling at Bridge Farm and the new house being promoted by the Appellant. This option would necessitate the construction of a new driveway which would connect with the proposed housing site along the southern edge of the plot. This could necessitate the widening of the existing access serving Bridge Farm and the removal of a group of trees along the southern side of both the host plot and the proposed new plot.

The decision as to which of these two options is the most appropriate and least harmful in planning terms is finely balanced. Whilst there would be some loss of trees connected with the joint access solution, it is my view that this would be outweighed by the loss of a significant section of hedgerow to make way for the enlarged access directly onto Stony Lane. This section of Stony Lane is completely rural in character, which is primarily defined by the mature hedgerows on both sides of the road.

The loss of such a significant section of hedgerow would have the effect of urbanising the character of Stony Lane beyond the existing confines of the village. The impact of opening up such a substantial length of hedgerow would be further increased by affording direct views of the proposed house and other domestic structures which would be likely to follow.

It is pertinent to note of course that in addition to the above concerns, the current proposal has resulted in an objection from the Highway Authority on the basis of inadequately visibility which adds to concerns over the retention of the current access.

The volume of support received in respect of the retention of the access is noted, although it is the benefits of the creation of a passing place, and the retention of trees on the site rather than the access to the dwelling which appear to be the main basis for support. It is maybe not surprising that some people may see the retention of trees as a greater benefit than the re-instated bank and hedge given that the benefits from this cannot be seen. It is also material that those trees could be felled without consent at any time.

County Highways have suggested that should the applicant wish to retain a passing place, this may be possible through retaining the mouth of the access with reinstated bank and planting behind. They have advised that visibility for a passing place would be acceptable whilst visibility for a car pulling onto the road from the access is substandard and dangerous.

Overall given that there are no material change in circumstances which have arisen since the formation of the unauthorised access and the visual scar created by it, it is considered that planning permission should be refused for the variation of condition 2 and removal of condition 3, and the access be permanently closed prior to the occupation of the dwelling, in accordance with the details previously approved.

RECOMMENDATION

REFUSE for the following reasons:

1. The removal of a significant length of hedgerow and development to create an access in this location is visually intrusive and has a detrimental impact on the verdant nature and rural character of this part of Stony Lane. As such the proposal is contrary to Strategy 7 (Development in the Countryside) and Policy D1 (Design and Local Distinctiveness) of the East Devon Local Plan 2013-2031.
2. The proposed development would be likely to result in an access which does not provide adequate visibility from and of emerging vehicles, contrary to Policy TC7 (Adequacy of Road Network and Site Access) and the guidance within the National Planning Policy Framework.

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council seeks to work positively with applicants to try and ensure that all relevant planning concerns have been appropriately resolved; however, in this case the development is considered to be fundamentally unacceptable such that the Council's concerns could not be overcome through negotiation.

Plans relating to this application:

2093 37.1 E : 1	Proposed Site Plan	29.03.21
2093 37.2 E : 2	Proposed Site Plan	29.03.21

List of Background Papers

Application file, consultations and policy documents referred to in the report.