

REPORT TO THE NORTHERN AREA PLANNING COMMITTEE

Report No.

Date of Meeting	9 th June 2010		
Application Number	10/00122/FUL		
Site Address	Agricultural Field, Thickwood, Colerne, Chippenham, Wiltshire		
Proposal	New Field Access		
Applicant	Mr T Hall		
Town/Parish Council	Colerne		
Electoral Division	Box & Colerne	Unitary Member	Sheila Parker
Grid Ref	382310 172820		
Type of application	Full Application		
Case Officer	Christine Moorfield	01249 706 686	christine.moorfield@wiltshire.gov.uk

Reason for the application being considered by Committee

The application has been called to committee by Cllr Parker so that the issue of an access to this site which is subject to TPOs may be considered by members.

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Main Issues

- Use of the land
- The TPO'd trees
- Access and Road safety
- Access Construction
- Impact on visual amenity.
- Compliance with policies C3, NE4, NE14

3. Site Description

The site is outside the Colerne Conservation Area but is within the AONB. The site is grass land at the moment and there are piles of logs adjacent to the south and south eastern boundaries. The site is triangular in shape and has an area of just over 1 acre.

Along the Western boundary is a line of mature trees these are predominantly Beech with some Lime and Sycamore. The site has a TPO on it (TPO number 9). The land appears to have been used for agricultural purposes. There is a footpath which runs along the North Eastern boundary. At the northern corner of the site there is a gap in the trees and it appears that a wire fence has been removed at some point and vehicles have accessed the site.

4. Relevant Planning History

In 1969 a Tree Preservation Order was put on 76 of the trees on the site.

No recent planning applications for development on this site have been received.

However in 1981 an outline planning application for 2 houses was refused.

There is a long planning history in respect of the trees on this site and the use of the gap at the northern point of the site as a vehicular access. The status of this access has caused concern to neighbours in the past. It appears that the gap in the trees had allowed vehicles to get onto the site, however this had not involved any development and therefore previous investigations had concluded it was not expedient for the local authority to take action. The gap was closed off with a wire fence. This wire fence has been removed but there has not been any development work undertaken to create an access.

History in relation to works to the trees on this site is very patchy. In 1989 consent was granted for the removal of 7 trees and some pruning work which was approved subject to the replanting of 7 Beech trees.

In 1991 the Council's Tree Officer confirmed that the replacement trees had been planted and were generally in good health. He commented at the time that Sycamores were growing due to removal of Beech trees.

It is evident that in the early 1990s there were complaints in respect of trees being removed from the site and the driving of vehicles onto the site which had resulted in an informal access being used. However, it appears that these issues were investigated at the time and in each instance it was not considered expedient for any action to be taken by the Local Authority.

In 2004 consent was granted for works to 2 sycamores and removal of Horse Chestnut which was not covered by the TPO.

5. Proposal

This application is for a new field access only. The application does not involve the change of use of the land. The proposal does not involve the felling of any trees. No works to any of the boundaries are proposed as part of this application. The applicant has done some maintenance work to the boundaries but the erection of a means of enclosure less than a metre in height does not require planning permission.

6. Consultations

Colerne Parish Council supported the application on safety grounds

Highway Engineer has not objected to the proposal.

7. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

8 letters of support have been received.

Reasons for supporting the application

- The access will be safer than the one used at present.
- The applicant has improved the look of the site by maintaining it well.
- The site was previously use as a tip and the site has been generally misused over the years.

- Letters of objection have been received

12 letters of objection have been received four of the objectors wrote in twice.

Reasons for objection to the proposal are as follows

- There is no existing access into the site the gap at the north corner of the site was closed off with a wire fence as it was too dangerous to drive vehicles into and off the land. The fence has been removed.
- Trees are covered by a TPO.
- Trees have been removed from the site particularly along the eastern boundary.
- Loss of trees has been detrimental to visual amenity.
- Access onto this busy road is dangerous.
- There have been accidents in the vicinity of this site.
- The rebuilding of boundary walls seems to have necessitated the removal of trees from the site.
- Site notice on the site when it should have been adjacent to the footpath.
- There has only ever been a pedestrian access into the site.
- Previous ombudsman complaint in respect of the access and its use on this site.
- Concerns that the information submitted is not adequate to assess the impact the new access will have on the existing remaining trees.

8. Planning Considerations

Use of the land

The Council do not have any planning application history in respect of this piece of land. Information from both the applicant and interested parties indicate that the land was formally part of the Lucknam Park Estate. It appears that a gap in the trees at the northern corner of the site has enabled vehicles to drive onto the land.

The TPO'd trees

The trees are the subject of TPO no. 9. This is an old TPO made in 1969 and unfortunately the supporting information in relation to this TPO is very sketchy.

The TPO documents do not include an accurate accompanying survey plan; the description of trees on the site refers to 65 Beeches, 5 Limes, 3 Larches, 2 Ash and 1 Scots Pine. The information does indicate that the trees were predominantly on the western boundary adjacent to the road with a group of trees in the south corner.

Understandably, neighbours to this site are very concerned that the number of trees on this site has substantially reduced since 1969 when the TPO was made. In the 40 year period some trees will have been lost naturally but there is an assumption that numerous trees have been removed without the necessary consents.

The present owner purchased the site in 2008.

In the absence of a precise and accurate survey plan identifying the location and size of the trees covered by the TPO and clear and accurate information as to which trees have been removed by whom and when, it would not be practical or reasonable for the Local Authority to pursue enforcement action in this respect. Lengthy negotiations have taken place with the present owner

of the land who is well aware of the issues in relation to the number of trees that have been lost from this site. In recognition of this issue the applicant has agreed to a replanting scheme to be secured via a new Order. To require a scheme via condition would fail to meet the tests of circular 11/95. The scheme submitted indicates 13 no. new trees. Five Scots Pines are to be planted in the northern corner of the site. Four no. Lime trees and 3 Beech trees are to be planted amongst the existing line of trees. Any new trees should be of a heavy standard size to enable them to contribute to the visual amenity of this site as quickly as possible.

It appears that many of the trees that have been removed were not covered by the TPO. The TPO made no reference to sycamore trees and therefore any such trees would not have been protected.

This planting scheme is considered to be an acceptable level of replanting on the site as it will substantially add to the belt of trees which have been reduced over the last 40 years.

The type and position of the new trees have been agreed with your Tree Officers and subject to conditions requiring their planting and replacement should they die then this landscaping scheme is acceptable. It is also considered to be of paramount importance that a new TPO with the necessary site survey plan be produced which will cover all the trees including the new trees in order that officers are able to ensure the protection of this belt of trees onto the future.

Access and Road safety

The application as originally submitted, referred to a 'relocated' access. However, in recognition of the fact that neighbours contested that the existing access was unlawful the description was changed to 'New Field Access'.

The new access has been fully considered by the Highway Engineer and it is considered that the access as proposed is acceptable in terms of its location, visibility and its size. The access is 5m wide and is set back 7500m from the edge of the carriage way. It is proposed that it will have a farm gate as means of enclosure. This is a fairly modest access but it is considered appropriate for access to a field.

In response to residents' concerns about accidents in this locality, the Highway Engineer has confirmed that it is not in this location where there have been accidents and this access is not seen to present an unacceptable safety issue.

Access construction

The construction of the access has been fully considered by the Tree Officers. The site is set down slightly from the road and so there will need to be an element of 'levelling off' in order for the access to be constructed. The details submitted indicate that the construction method involves the installation of a cellweb confinement system within the root protection area of the adjacent trees. The details submitted are acceptable and the Council's Tree Officers are satisfied that subject to conditions ensuring the development is carried out in accordance with the submitted arboricultural survey report then there should not be any harm caused to the nearby trees.

Impact on visual amenity

It is not considered that this proposed access would detract from the visual amenity of the locality. The properly constructed access and means of enclosure may help to eliminate the possibility of this land being used for fly tipping. Those who support the application have commented on how well maintained the land has been since the new owner has had the land. The additional planting proposed in respect of this application will improve the visual appearance of this belt of trees which are adjacent to the road and are visually very important on approaching Thickwood. Therefore the proposal is seen to preserve and enhance both the visual quality and character of the area thereby complying with Policies C3, NE4 and NE14 of the North Wiltshire Local Plan 2011.

Other Matters

Concerns were expressed in relation to the siting of the site notice. However the notice was placed on the site as required and therefore this is considered to have been adequate. There may have been a better location close to the footpath however this does not diminish the fact that a site notice was displayed as required and no parties were prejudiced.

9. Conclusion

The poor quality of accurate information in relation to TPO9 has rendered this application difficult to process. However, it is considered important that officers take a practical and reasoned approach to this proposal. The application is for a new access to an existing field. In recognition of the concerns of adjacent residents the applicant has agreed to a substantial planting scheme. Officers are committed to ensuring that an accurate survey plans will be available to ensure that the existing and newly planted trees are protected in the future. The access is considered safe and its construction will not have a detrimental impact on the adjacent trees.

This application has been considered on its merits and all relevant historic planning issues have been considered in the determination of this application.

Concerns in respect of the possible future development of this land by interested parties are recognised but this application must be judged on its merits and is an acceptable form of development in terms of its impact on the visual amenity of the area road safety and its impact on the character and appearance of the AONB. The proposal complies with Policies NE14, C3 and NE4 of the North Wiltshire Local Plan 2011.

10. Recommendation

Planning Permission be GRANTED for the following reason:

This access is considered acceptable given the use of the land and in terms of its impact on highway safety, the trees on the site and visual amenity the proposal complies with NE15, C3, NE14 and NE4 of the North Wiltshire Local Plan 2011.

Subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The replacement tree(s) required by this permission are 4 Lime Trees, 3 Beech Trees and 6 Scots Pine Trees; supplied and planted as Heavy Standard; with a girth of 12 – 14 cms.

The new tree(s) shall be established by the end of the 2010-11 planting season. All plant material should comply with the minimum British Standard requirement for tree planting, these being BS3936 (Part 1 & 4), BS4428:1989 Section 7, and BS4043.

The replacement tree(s) shall be sited at or as close to the position of the felled tree(s) as is reasonably practicable.

The replacement tree shall be properly maintained for a period of 10 years. If removed or become damaged or diseased within this period shall be replaced in the next planting season with the same species. If a variation in species is required due to disease, agreement must be sort in writing from the Local Planning Authority.

REASON: To ensure that trees are replaced for the benefit of visual amenity and character which at present exists on site.

3. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard 3998 (Tree Work).

If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

No equipment, machinery or materials shall be brought on to the site for the purpose of the development, until a scheme showing the exact position of protective fencing to enclose all retained trees beyond the outer edge of the overhang of their branches in accordance with British Standard 5837 (2005): Trees in Relation to Construction, has been submitted to and approved in writing by the Local Planning Authority, and; the protective fencing has been erected in accordance with the approved details. This fencing shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the Local Planning Authority.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) above shall have effect until the expiration of five years from the first occupation or the completion of the development, whichever is the later.

REASON: To enable the local planning authority to ensure the retention of trees on the site in the interests of visual amenity.

Policy: C3

4. No development shall commence on site until the trees on the site which are protected by a Tree Preservation Order have been enclosed by protective fencing, in accordance with British Standard 5837 (2005): Trees in Relation to Construction. Before the fence is erected its type and position shall be approved with the local planning authority and after it has been erected, it shall be maintained for the duration of the works and no vehicle, plant, temporary building or materials, including raising and or, lowering of ground levels, shall be allowed within the protected areas(s).

REASON: To enable the local planning authority to ensure the protection of trees on the site in the interests of visual amenity.

5. Any gates shall be set back 4.5 metres from the edge of the carriageway, such gates to open inwards only.

REASON: In the interests of highway safety.

POLICY: C3

6. The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

POLICY: C3

7. No development shall commence on site until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2 metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 160 metres to the North and 160 metres to the South from the centre of the access in accordance with the approved plans. Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 900mm above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

POLICY: C3

8. The access as hereby permitted shall be constructed strictly in accordance with the details included within the arboricultural survey report submitted in support of this application. Thereafter the access shall remain as so constructed.

Reason: In order to ensure that the adjacent trees are not damaged as a result of this development.

POLICY: C3

9. Prior to the commencement of the development hereby permitted precise details of the gate and any means of enclosure on the site shall be submitted to and approved by the local planning authority. Thereafter the gate and means of enclosure shall be constructed and retained in accordance with the approved details.

REASON: In the interests of visual amenity.

INFORMATIVE

1. This decision relates to documents/plans submitted with the application, listed below. No variation from the approved documents should be made without the prior approval of this Council. Amendments may require the submission of a further application. Failure to comply with this advice may lead to enforcement action which may require alterations and/or demolition of any unauthorised buildings or structures and may also lead to prosecution.

Design and Access Statement, Site location plan received 14.01.10 , access layout plan received 20.01.10, replanting scheme plan received 20.5.10, Arboriculturalist's report received 25.5.10

Appendices:	None
Background Documents Used in the Preparation of this Report:	1.19, 2.02, 4.02, 4.03, 4.04, 4.07, 5.01

