



# Appeal Decision

Site visit made on 2 November 2009

by **James Ellis LLB (Hons) Solicitor**

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

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**Decision date:**  
**23 November 2009**

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## Appeal Ref: APP/T0355/A/09/2105361

### Field adjacent to Coningsby Lane, Fifield, Maidenhead, Berkshire SL6 2PF

- 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 Ms Pene Grimster against the decision of Council of the Royal Borough of Windsor and Maidenhead.
- The application Ref 08/02864, dated 20 November 2008, was refused by notice dated 5 February 2009.
- The development proposed is permanent retention of existing temporary field access created by the Bray Pipeline, closing of existing access and planting hedgerow across resulting gap.

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## Decision

1. I allow the appeal, and grant planning permission for permanent retention of existing temporary field access created by the Bray Pipeline, closing of existing access and planting hedgerow across resultant gap at the field adjacent to Coningsby Lane, Fifield, Maidenhead, Berkshire SL6 2PF in accordance with the terms of the application, Ref 08/02864, dated 20 November 2008, and the plans submitted with it, subject to the conditions in the Schedule of Conditions set out below.

## Main issues

2. The main issues are: whether the proposal would be inappropriate development within the Green Belt; the effect of the proposal on the character and appearance of the area; and whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

3. The proposal is to provide an access to a field within the Green Belt. The field lies on the south side of Coningsby Lane, immediately to the west of an electricity sub-station on the edge of the village of Fifield. The site of the proposed access is about 100 metres to the west of the sub-station. The access has been used as a temporary access in connection with water pipeline works. However, it was fenced off at the time of my site visit. The northern margin of the field which would be served by the proposal has five trees which are protected by a Tree Preservation Order. Two of these trees would be adjacent to the proposed access. The existing access to the field is close to the western corner of the field. I am advised that the field is used for the grazing
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and care of horses kept at Wayside Stables, which functions as both a riding school and livery enterprise.

4. The proposed access would have double width timber gates set back some 5 metres from the back of the field edge/ highway boundary ditch. The ground area within the set-back would have a permeable Ecoblock finish which would be grassed over. The vehicle crossing (over a culvert) would be in accordance with the Council's standard specification for an agricultural vehicle crossing. Splay sections of fencing to either side of the access would be planted with hedgerow. The access would be provided with appropriate visibility splays. The existing access would be abandoned and replanted to become an infill section within the field boundary hedgerow.
5. Paragraph 3.12 of Planning Policy Guidance 2: Green Belts (PPG2) states that the carrying out of engineering and other operations are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. This guidance is echoed in saved Policies GB1 and GB2 of The Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted in June 2003).
6. The proposal would maintain the loss of hedgerow across the frontage of the access that was formed by the pipeline works. However, it is my view that this loss would be compensated for by the planting of new hedgerows, both along the splay sections of fencing to either side of the proposed access, and at the existing access. As such, I do not consider that the loss of hedgerow would have an adverse effect on the openness of the Green Belt. In terms of the access itself, the materials to be used in its construction, the fencing, and the double width wooden gates are all features which, in my experience, are commonly found in the Green Belt. Given this and the scale of the proposal, which I consider to be limited, it is my opinion that the proposal would maintain the openness of the Green Belt.
7. The Council has contended that the loss of hedgerow would conflict with the purposes of including land in the Green Belt as hedgerows are an important part of the character of the countryside. It goes on to suggest that the proposal would be substituting a 'man made environment', which would be at odds with the natural form of the hedgerow. One of the purposes of including land in Green Belts, and which is relevant to the Council's contention, is to assist in safeguarding the countryside from encroachment. I do not accept that the access would be encroachment of the countryside. As I have indicated, the loss of the hedgerow would be compensated for by the planting of new hedgerows. The new access, a replacement for an existing one, would include man made features, but these are not unusual in Green Belt countryside. I therefore find that the proposal would not conflict with the purposes of including land in the Green Belt.
8. Given my findings in paragraphs 6 and 7, I conclude that the proposal would not be inappropriate development within the Green Belt for the purposes of PPG2 and Local Plan policies.
9. After carrying out my site inspection, I consider that Coningsby Lane is an attractive country lane, typical of the area. The hedgerows on either side of the lane do make a contribution towards this attractiveness, but the hedgerows

are not continuous and are punctuated by existing accesses to fields. To my mind, the accesses also add to the rural character of the area. There has been a loss of hedgerow across the frontage of the proposed access and this would be maintained. However, the proposal would involve the planting of considerably more new hedgerow to compensate for this loss. I also consider that the design of the proposed replacement access, and the materials to be used in its construction, are such that it would not significantly detract from the attractiveness of the lane. I therefore conclude that the proposal would not result in harm to the character and appearance of the area. In this respect, the proposal would not be contrary to saved Policies GB2 and N7 of the Local Plan.

10. The existing field access is to a length of Coningsby Road which is the subject of a 60 mph speed limit, whereas the proposed access would be in a 30 mph limit. The Council has produced evidence to demonstrate that visibility at the existing access would be clearly substandard and that at the proposed access marginally substandard. Third parties have queried the distances of visibility splays referred to in the report of the Council's planning officer and have sought to demonstrate that visibility at the existing access is better than that at the proposed access. However, if one takes into account the respective speed limits (which I consider to be the correct approach), the distances referred to by the third parties support a case that visibility at the proposed access would be an improvement on that at the existing access. The proposal would also allow a horsebox to be reversed into the access in order to pick up or deliver horses to the field which, in my view, would be helpful.
11. It has been alleged by third parties that, since the appellant started using the field, traffic flows along Coningsby Lane have increased. This may be so, but there is no convincing evidence before me to support a contention that the proposal would lead to a further increase. Overall, I conclude that there would be a highway benefit arising from the proposal. This adds weight to my previous conclusions.
12. Other issues raised by third parties include flood risk, the effect of the proposal on protected trees, ecology, precedent, the future motives of the appellant, the future appearance of the field, the way in which the appellant has maintained hedgerows and ditches, and the amount of local opposition. Reference was also made to an application at Paley Street, Maidenhead which was refused by the Council.
13. There has been flooding in Coningsby Lane and I can appreciate that there is local concern that a permanent access with a culvert could exacerbate the situation. However, there is no technical evidence to support this contention. The Environment Agency and the Council's Drainage Engineer did not object to the proposal. The use of Ecoblock should help with potential flooding. The Council also suggested a planning condition requiring the provision of an interceptor drain channel and a raised area at the back of the crossover. Given the evidence before me and the suggested condition, I am satisfied that the proposal should not exacerbate existing flooding in Coningsby Road.
14. I consider that the two protected trees which would be on either side of the proposed access make a significant contribution to the character and appearance of the area and should be retained. The root protection areas of

the trees are outside the area of the proposed access and can be protected by fencing. I therefore find that the proposal would not result in harm to protected trees. As regards ecology, the hedge that has already been removed to facilitate the laying of the pipeline will have already had a detrimental effect. However, the planting of a greater length of hedging than that which was removed should bring about an advantage in terms of habitat. Newt fencing may have been put up when works on the Bray Pipeline were being carried out but there is no hard evidence before me to indicate that Great Crested Newts have actually been found in the vicinity of the proposal. From the evidence before me, I conclude that I am satisfied that the proposal would not have a significant adverse impact on ecology generally, or on Great Crested Newts, which are protected species under the Wildlife and Countryside Act 1981 (as amended), in particular.

15. As regards precedent, I have found that the proposal would not result in harm. In any event, future applications would be dealt with on their individual merits. The future motives of the appellant, the future appearance of the field, the way in which the appellant has maintained hedgerows and ditches, and the amount of local opposition (as opposed to the merits of planning matters raised by third parties) are not material planning considerations to which I give weight. It may be the case that the Council refused a similar application at Paley Street but, as far as I am aware, that refusal was not challenged at appeal. I therefore give little weight to the Paley Street decision. I conclude that the points raised by third parties carry limited weight, whether singly or in combination, and are not such as to warrant dismissal of the appeal.
16. The Council suggested a number of conditions in addition to the standard commencement of development condition. Some of the conditions were in respect of highway safety and referred to the construction and materials of the new access, the stopping up of the existing access, the location of gates, and the provision of visibility splays. Another condition referred to surface water run-off and I have already dealt with this. Lastly, a condition referred to root protection fencing and to replacement hedgerow planting. This was in the interests of protecting the trees the subject of the Tree Preservation Order, and for ensuring that hedging is provided. I consider all the suggested conditions to be reasonable and necessary.
17. In imposing the conditions, I have generally followed the wording suggested by the Council but I have made a number of amendments and split the condition relating to tree protection and hedgerow planting into two for the sake of clarity. Although there was reference to a schedule specification to Drawing Wayside 2.1 in the appeal documentation, it appears that the schedule specification itself was not submitted. As I have not had sight of the specification, I have recast the conditions relating to tree protection and hedgerow planting to refer to schedules and specifications to be submitted to and approved by the Council prior to the commencement of development.
18. For the reasons given above, I conclude that the appeal should be allowed.

*James Ellis*

Inspector

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The access hereby permitted shall not be brought into use until it has been constructed in accordance with the approved plans and any other details which are required to have been previously submitted to and approved in writing by the local planning authority. For the avoidance of doubt, the access shall be surfaced with Ecoblock across its entire width for a distance of 5 metres measured back from the highway boundary, and this surface shall be extended 5 metres into the site.
- 3) The existing access to the field shall be stopped up and abandoned immediately after the new access has been brought into use. The verge shall be reinstated in accordance with details (including a timetable) which shall have been previously submitted to and approved by the local planning authority.
- 4) Any gates to be provided at the access hereby permitted shall open away from the highway and be set back at a distance of 5 metres from the highway boundary or 7 metres from the carriageway edge.
- 5) The access hereby permitted shall not be brought into use until visibility splays of 2 metres by 30 metres to the left and 2 metres by 70 metres to the right have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 0.6 metres above carriageway level.
- 6) Construction of the access shall not commence until Root Protection Area related fencing has been provided within the field margins in accordance with Drawing Wayside 2.1 and a specification which shall have previously been submitted to and approved by the local planning authority. Thereafter, the fencing shall be retained in accordance with the approved drawing and specification.
- 7) Native species hedgerow planting in conjunction with both the proposed new and existing field access shall be provided in accordance with drawings, schedules and a specification (to include a timetable) which shall have been submitted to and approved in writing by the local planning authority prior to the commencement of development. Thereafter, the hedgerow shall be retained and maintained in accordance with the drawings, schedules and specification.
- 8) Details of the profile of the access within the field margins shall be submitted to and approved by the local planning authority prior to the commencement of development. These details shall show both provision of an interceptor drain channel and the formation of a raised area at the back of the crossover. The development shall be carried out in accordance with the approved details.