

Application No. 18/00177/FULL

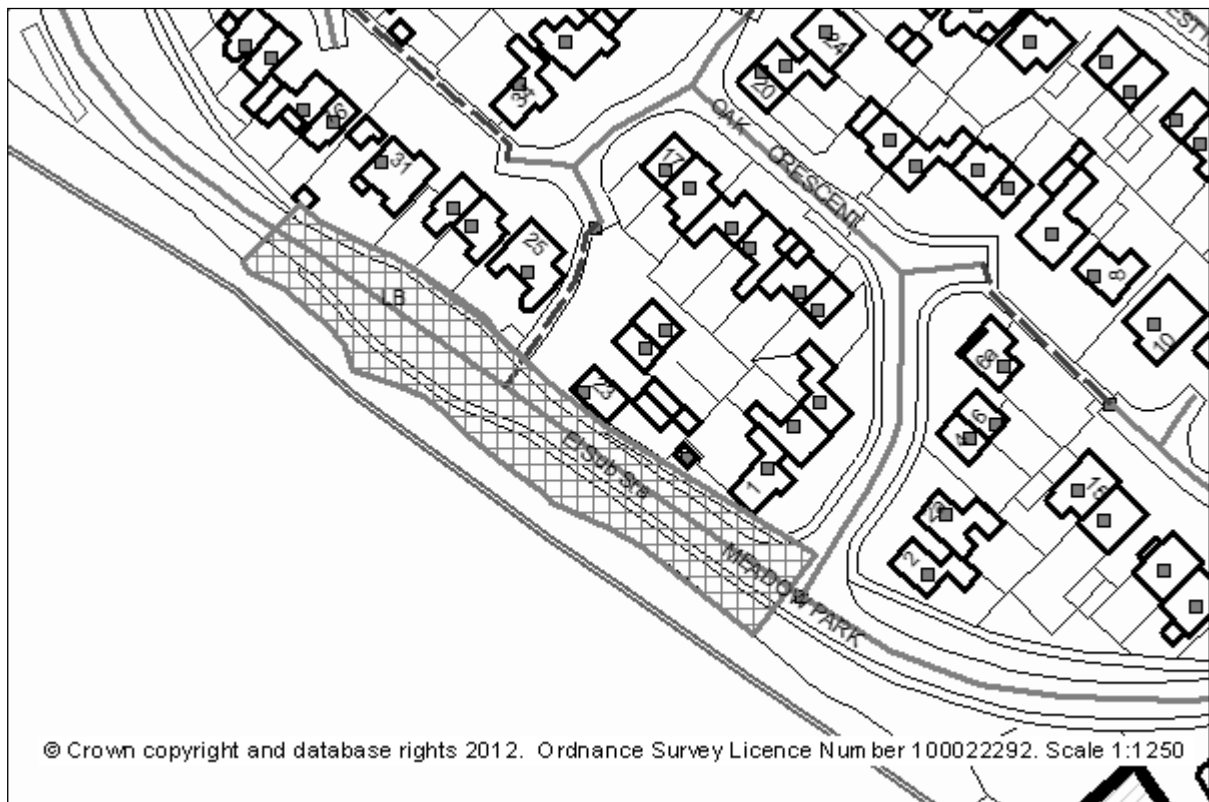
Grid Ref: 303174 : 110748

Applicant: Gallagher Estates Ltd and Ms Joanne Richards

Location: Land at NGR 303174 110748
Meadow Park
Willand
Devon

Proposal: Creation of new access for residential development of up to 125 dwellings

Date Valid: 26th January 2018



APPLICATION NO: 18/00177/FULL

RECOMMENDATION

Grant permission subject to conditions

PROPOSED DEVELOPMENT

This is a full stand-alone application for the creation of new access for residential development of up to 125 dwellings to be provided from Meadow Park, into the application site previously considered on this agenda. The application proposes an access with 2m wide footways at either side the tie in with the existing footway network on Meadow Park. The access is in the vicinity of the bus stop and can provide visibility of 43m in either direction. The proposal will necessitate the removal of some trees at the point of access.

APPLICANT'S SUPPORTING INFORMATION

Covering letter
Transport assessment
Tree survey

RELEVANT PLANNING HISTORY

18/00177/FULL - PCO date
Creation of new access for residential development of up to 125 dwellings

OTHER HISTORY

18/00175/MOUT – outline for the erection of up to 125 dwellings with public open space and associated infrastructure – under consideration earlier in this agenda

DEVELOPMENT PLAN POLICIES

Mid Devon Core Strategy (Local Plan Part 1)

COR1 Sustainable communities
COR9 Access
COR10 Strategic transport networks
COR11 Flooding

Local Plan Part 3 (Development Management Policies)

DM1 Presumption in favour of sustainable development
DM2 High quality design
DM6 Transport and air quality

CONSULTATIONS

WILLAND PARISH COUNCIL - Willand Parish Council recommend refusal of this application as it is linked to an application for 125 houses which is contrary to policy and has a number of other issues which make it unacceptable. To approve an access in isolation from any development which has not been approved is considered to be unwise. If the access is approved but the outline housing application is refused then the access may not be appropriate for the planned housing in accord with the emerging local plan at Policy WI1. Policy WI1 states:

A site of 2.9 hectares at land east of M5, Willand, is allocated for residential development subject to the following:

- a) 42 dwellings with 30% affordable housing;
- b) Provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway;
- c) Mitigation of any wildlife impact including protection of trees;
- d) Transport assessment of capacity at the junction of Silver Street and Meadow Park; and
- e) Retention and enhancement of the public right of way.

Supporting Paragraph 3.237 states: A Transport Assessment of the capacity of the junction of Silver Street and Meadow Park may result in a different number of dwellings from the number allocated. The current public footpath across the northern boundary of the site should be retained and enhanced.

Policy WI1 d) Transport assessment of capacity at the junction of Silver Street and Meadow Park. A transport assessment has been carried out as a desk bound and computer model in the main. It cannot be seen that any practical account has been taken of the effect of school drop off and collection or the on-street parking during evenings or weekends. No account seems to have been taken of the on-road parking and traffic movement through the junction when Willand Rovers have home games. No account has been taken of the extra traffic past the junction on the B3181 when the M5 or other roads are closed and this is used as a diversion route. An event which seems to be happening with greater frequency.

DCC Highways advice is not available at the time of submission of this response and so further comment may be submitted for consideration when it is seen.

DCC – FLOOD/ COASTAL RISK MANAGEMENT TEAM - Recommendation:

Devon County Council's Flood and Coastal Risk Management Team is not a statutory consultee for the above planning application because it is not classed as a major development under Part 1(2) of The Town and Country Planning (Development Management Procedure) (England) Order (2015). However, we have been approached by the Local Planning Authority to provide advice in respect of the surface water drainage aspects of the above planning application, which is outlined below.

Observations:

We have no in principle objection to this application, however I would note that it is linked to a major application for a development of 125 houses, for which we have requested additional information with regard to the surface water drainage. Therefore, I would request that this application is not determined until the additional information for the major application has been provided and approved.

RIGHTS OF WAY OFFICER EAST - 5th March 2018

The Public Rights of Way Team has a duty to assert and protect the rights of the public to the full and free enjoyment of public rights of way and to maintain the network. In addition, it is also responsible for the maintenance of recreational trails and unsurfaced roads.

Government guidance considers that the effect of development on a public right of way is a material planning condition (Rights of Way Circular 1/09 - Defra October 2009, paragraph 7.2) and that public rights of way and access should be protected and enhanced with opportunities sought to provide better facilities for users by adding links to existing networks (National Planning Policy framework paragraph 75).

Devon County Council's Rights of Way Improvement Plan policy states that, working closely with LPAs, opportunities will be sought for improvements to the rights of way network through planning obligations where new developments are occurring.

It is also the County Council's policy that a holding objection will be made against any planning application which fails to take account of an existing public right of way until the matter is resolved.

Assessment of application

Willand Public Footpath Number 2 is a highway in law, recorded on the Definitive Map of public rights of way.

The proposals as submitted 18/00177/FULL and 18/00175/MOUT would have a direct effect on the public right of way as identified on the drawing number 3207 (Turley - Masterplan) and drawing number W15279_A_005 and would lead to an increased use.

Application number 18/00175/MOUT indicates that a new estate road bisects Public Footpath Number 2, Willand.

Response

The Public Rights of Way Team wishes to impose a holding objection to the above two applications until the applicant has provided further details, and subject to the conditions outlined below.

The holding objection is based on the fact that the proposals do not address the impact on the legal public right of way and would have a detrimental impact on the use and amenity of public rights of way in the locality.

Conditions

The County Council would require provision of a safe pedestrian road crossing scheme to alleviate the issue of the proposed bisection of Public Footpath Number 2 Willand.

The County Council would also insist that the existing Public footpath be upgraded to address the issue of increased usage. This would require a minimum surfacing standard of a 1.5 metre width path surfaced with a 100mm depth of sub base topped with a blinding of 6mm to dust. Any upgraded surface must also be correctly profiled and include drainage catchments and pipes.

It should also be noted that the requirement for a stile at the North end of the footpath would no longer exist and therefore should be removed.

The County Council also raises the following minimum general conditions covering submission of details.

- Prior to the commencement of development, an access scheme shall be submitted to and approved in writing by the planning authority, in liaison with the Devon County Council Public Rights of Way Team. Such scheme shall include provision for the design of public rights of way routes and their surfacing, widths, gradients, landscaping and road crossing points.

Reason: In the interests of the amenity and safety of the public.

- Any public rights of way crossed by vehicles shall be maintained in a good state of repair and kept clean and free of mud and other debris at all times.

Reason: in the interests of the amenity of the public.

- Provision shall be made for the installation and maintenance of a drainage system to ensure that no water from the permitted area flows onto the public right of way.

Reason: in the interests of highway safety and safeguarding the local environment.

Information

Please note that should the District Council grant planning permission it does not grant the right to close, alter or build over a right of way in any way, even temporarily, this includes, for example, a change in the surface, width or location. Nothing should be done to divert or stop up a public right of way without following the due legal process including confirmation of any order and the provision of any new path. In order to avoid delays this should be considered at an early opportunity. Further information about public rights of way and planning is available on our website.

If permission is granted, please include as footnotes in the decision notice:

The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.

Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

PUBLIC HEALTH - 22nd February 2018

Contaminated Land - no objection to this proposal

Air Quality - no objection to this proposal

Environmental Permitting - no objection to this proposal

Drainage - no objection to this proposal

Noise & other nuisances - no objection to this proposal

Housing Standards - No comments

Licensing - No Comments

Food Hygiene - Not applicable

Private Water Supplies - Not applicable

Health and Safety - no objection to this proposal enforced by HSE.

DEVON, CORNWALL & DORSET POLICE - 19th February 2018

Police have no comments at this time.

NATURAL ENGLAND - 26th February 2018 - No comments

REPRESENTATIONS

3 letters of objection had been received and are summarised as follows:

a) Can't believe more traffic being put through village

b) Takes 5-10 mins to pull out into Silver Street now in a morning

c) Road quality is poor with lots of potholes

d) Lots of nature along edges of field will be destroyed including 4 oaks

e) Huge volume of construction traffic will have to come through village which is subject to a weight restriction

f) Near a busy primary school and pre-school

g) Dangerous junction at Gables Road/Meadow Park junction

MATERIAL CONSIDERATIONS AND OBSERVATIONS

The main issues in the determination of this application are:

- 1) Policy**
- 2) Relationship to application 18/00175/MOUT earlier on the agenda**
- 3) Highway safety**
- 4) Other matters**

1) Policy:

The site is located outside but adjacent to the settlement limit. The application proposes an access from the road known as Meadow Park into land currently allocated in the Local Plan Review for 42 dwellings, but also seeks to provide access for the up to 125 dwellings proposed as part of application 18/00175/MOUT.

Policy W11 states:

A site of 2.9 hectares at land east of M5, Willand, is allocated for residential development subject to the following:

- a) 42 dwellings with 30% affordable housing;*
- b) Provision of buffer zone and appropriate planting to mitigate noise from the adjacent motorway;*
- c) Mitigation of any wildlife impact including protection of trees;*
- d) Transport assessment of capacity at the junction of Silver Street and Meadow Park; and*
- e) Retention and enhancement of the public right of way.*

Supporting Paragraph 3.237 states: *A Transport Assessment of the capacity of the junction of Silver Street and Meadow Park may result in a different number of dwellings from the number allocated. The current public footpath across the northern boundary of the site should be retained and enhanced.*

The application was submitted with a transport assessment which has been considered by DCC Highways and the public rights of way team at DCC have been consulted and have provided a response in relation to criteria e) above.

2) Relationship to application 18/00175/MOUT

As set out above, this is an application for up to 125 dwellings. However, Members are advised that the application site for the 125 dwellings includes land which is allocated in the LPR for 42 dwellings and therefore this application must be considered on its own merits, as a means of providing access into the site to serve the allocation, even if the application for the 125 dwellings (18/00175/MOUT) has been refused or remains undetermined.

3) Highway safety

The key material consideration in relation to this application is highway safety.

The Highway Authority has considered the transport assessment and is satisfied with its contents, figures and conclusions. The Highway Authority have taken into consideration the Parish Council's concerns over the survey data being outside school operating dates and the increase in activity around pick up and drop off. The proposed development of up to 125 dwellings will generate 28 movements in the Am peak turning left and less in the PM. They have advised that this represents 6% of the traffic along Silver Street in the Am peak in August and will be less than 6% with the anticipated increase in school traffic but they consider this is likely to be a negligible number.

The Highway Authority have advised that they have previously accepted the survey data in relation to the earlier application for 259 dwellings which was considered in detail at appeal.

and that it would be unreasonable not to do so for this application. Moreover they have highlighted that accident statistics show 3 slight accidents in the vicinity of the school, none of which were related to each other and no pattern of causation gives rise to a specific reason.

The Parish Council has raised the policy requirement for the improvement of the footways to the village centre and the Highway Authority concur that they would wish to see the footway width widening to a minimum of 2.0m throughout. It is understood this will require land outside of the control of the Highway Authority but they are led to believe this is in the control of the District Council. The vegetation adjacent to the footway overgrows the existing footway and therefore they have advised that this should be cleared to the edge of footway and to a minimum height of 2.4m and maintained as such. To widen the path may require the removal of hedge and trees so further detailed drawings of these works are required by condition on the outline application considered earlier in this agenda.

The revised NPPF (para 109) does now permit development to be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety rather than the previous version which only be allowed applications to be refused on transport grounds where the residual cumulative impacts of development were 'severe' Despite this change, it is not considered that a refusal could be justified on highway safety grounds as it is not considered that there is an unacceptable impact.

4) Other matters

The Public Rights of Way team have advised on the need for more information in order to ensure that the public right of way is protected during the course of development and enhanced thereafter. To this end they have suggested 3 conditions which have been attached, together with an informative note. However, this application for an access does not cross the PROW and therefore any impact on the PROW will be dealt with via the related planning application for the development of the site which will affect the PROW. Accordingly, the suggested conditions have not been attached to this consent

The scheme for the provision of access does require the loss of some mature trees but the Tree Officer has visited the site and is satisfied that the location of the access is suitable and can be mitigated by additional planting. An Arboricultural Method Statement and Tree Protection Plan are required by condition. Criteria c) of policy WI1 is therefore considered to be complied with.

On this basis the application is recommended for approval.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed in the schedule on the decision notice.
3. Insofar as it relates to this application, the proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and

sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

4. No development shall take place until a surface water drainage scheme has been submitted to and approved in writing by the County Planning Authority. Unless it is demonstrated that it is unfeasible to do so, the scheme shall use appropriate Sustainable Urban Drainage Systems. The drainage scheme shall be designed so that there is no increase in the rate of surface water runoff from the site resulting from the development and so that storm water flows are attenuated. The development shall be carried out in accordance with the approved scheme.
5. Provision shall be made for the installation and maintenance of a drainage system to ensure that no water from the permitted area flows onto the public right of way.
6. No development shall begin until an Arboricultural Method Statement and Tree Protection Plan, to include engineering details for any areas of no-dig construction, has been submitted to (with or in advance of the first Reserved Matters application) and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the approved details.

REASONS FOR CONDITIONS

1. In accordance with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt and in the interests of proper planning.
3. To ensure that adequate information is available for the proper consideration of the detailed proposals.
4. To protect water quality and minimise flood risk in accordance with Flood Management Act.
5. In the interests of highway safety and safeguarding the local environment.
6. To ensure that the mature trees on site continue to contribute where possible to the character and appearance of the area

INFORMATIVES

1. Rights of Way
 - The alignment, width, and condition of public rights of way providing for their safe and convenient use shall remain unaffected by the development unless otherwise agreed in writing by the Public Rights of Way Team.
 - Nothing in this decision notice shall be taken as granting consent for alterations to public rights of way without the due legal process being followed.

REASON FOR APPROVAL OF PERMISSION

The application proposes an access from the road known as Meadow Park into land currently allocated in the Local Plan Review for 42 dwellings, but also seeks to provide access for the up to 125 dwellings proposed as part of application 18/00175/MOUT. The Highway Authority has considered the transport assessment and is satisfied with its contents, figures and conclusions subject to seeing the footway width widening to a minimum of 2.0m throughout. The scheme does require the loss of some mature trees but the Local Planning Authority are satisfied that the location of the access is suitable and can be mitigated by additional planting. The criteria of policy W11 and NPPF is therefore considered to be complied with.

The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. This report has been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.