



Appeal Decision

Site visit made on 21 July 2017

by H Baugh-Jones BA(Hons) DipLA MA CMLI

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

Decision date: 8th August 2017

Appeal Ref: APP/P0119/W/17/3174496

The Cornfields, A38 Whitfield, Wotton-Under-Edge, South Gloucestershire GL12 8ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Graham Howell against the decision of South Gloucestershire Council.
 - The application Ref PT16/5345/RVC, dated 22 September 2016, was refused by notice dated 27 February 2017.
 - The application sought planning permission for conversion of barns to form 2no. dwellings with garages and associated works without complying with a condition attached to planning permission Ref PT10/3362/F, dated 23 February 2011.
 - The condition in dispute is No 3 which states that: Prior to the commencement of the development hereby approved and thereafter, access point C (as shown on 'Future Access Arrangements' Rev A dated 14th February 2011) shall not be used for any agricultural purposes and shall be used solely for purposes ancillary to the two dwellings hereby approved.
 - The reason given for the condition is: To ensure the development maintains highway safety, and accords with Policy T12 of the South Gloucestershire Local Plan (Adopted) January 2006.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of barns to form 2no. dwellings with garages and associated works at The Cornfields, A38 Whitfield, Wotton-Under-Edge, South Gloucestershire GL12 8ED in accordance with the application Ref PT16/5345/RVC dated 22 September 2016, without compliance with condition number 3 previously imposed on planning permission Ref PT10/3362/F dated 23 February 2011 and subject to the conditions set out in the Schedule to this decision.
 - 1) Access point C (as shown on 'Future Access Arrangements' Rev A dated 14th February 2011) shall be used solely for the purposes of accessing the land edged blue for agricultural purposes and the land edged red for purposes ancillary to the two dwellings hereby permitted on plan titled Site Location Plan dated 17 October 2016.
 - 2) The hours of working on site during the period of construction shall be restricted to 0800 – 1800 Monday to Friday; and 0900 -1300 Saturdays, and no working shall take place on Sundays or Public Holidays. The term 'working' shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out

- of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of the site.
- 3) Prior to the commencement of the development hereby approved and thereafter, access point D (as shown on 'Current Access Arrangements' Rev A dated 14th February 2011) shall be stopped off permanently to any vehicular traffic. The access shall be replanted to match the adjacent hedgerow and maintained as such.
 - 4) Upon the commencement of the development hereby approved and thereafter, the agricultural land edged in red (as shown on 'Future Access Arrangements' Rev A dated 14th February 2011) shall not be accessed from point B.
 - 5) Prior to the occupation of either unit of development hereby approved, building nos. 5 and 6 (as shown on 'Existing Block Plan' Dwg. 09-1312-001/BP Rev B dated 15th February 2011) shall be removed in their entirety.

Application for costs

2. An application for costs was made by Mr Graham Howell against South Gloucestershire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the safe operation of the local highway network.

Reasons

4. The appellant's property includes a relatively substantial fenced-off field. Whilst he is able to maintain the grass on much of this land with a ride-on mower, he asserts that this is not possible in the westernmost part of the field. The appellant therefore wishes to use an agricultural vehicle to cut the overgrown area. From what I observed at my site visit, the land in question is too rough underfoot for it to be maintained successfully with a domestic piece of mowing equipment.
5. Condition 3 of the original permission was imposed in order to prohibit use of the access by general farm traffic serving a wider agricultural holding from the access referred to as 'point C' that leads directly off the A38. However, land ownerships have changed since that permission was granted. Prior to this, there was unrestricted access to some 130 acres of agricultural land from access point C. There is now no legal right of access via point C, to surrounding agricultural land in other ownership to that of the appellant.
6. The section of the A38 that passes the site is subject to a 50mph speed limit. Moreover, at the time of my site visit, the volume of traffic was relatively light and I also observed that visibility in both directions was good. Approaching drivers would not therefore be travelling at very high speed and they would have sufficient warning of an agricultural vehicle manoeuvring into and out of the access point C. I am not therefore persuaded that the infrequent access by an agricultural vehicle to maintain the appellant's land would have a material effect on the safe operation of the highway. I note that no objections have been raised by the highway authority in respect of the application.

7. Paragraph 32 of the National Planning Policy Framework (the Framework) is clear that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. For the reasons already given, I do not consider that to be the case here. The proposal would therefore accord with the Framework and with policy T12 of the South Gloucestershire Local Plan (2006) that, amongst other things, requires development to provide safe access for the motorised traffic it would generate.
8. I have taken into account the views of interested parties. Whilst I accept that the appellant's land could, at some future point be sold to the neighbouring agricultural landowner or indeed anyone else, I have no substantive evidence to indicate that this is likely. In any case, on the basis of the available evidence, there would appear to be no clear practical advantage in vehicles accessing the neighbouring agricultural land from access point C.
9. I also note the photographs showing an agricultural vehicle reversing onto the A38. However, I cannot be certain that this had anything to do with the maintenance of the appellant's land. It would be unusual for a vehicle to drive into the site along the driveway and reverse all the way back out again when it could easily turn within the site and leave in a forward gear.
10. My attention has been drawn to other appeal decisions. However, these were made under a different set of planning policy circumstances and I am not convinced of their direct relevance to the case before me. Notwithstanding this, I have determined the appeal on its individual merits.
11. Matters relating to a breach or otherwise of a planning condition do not fall for consideration in the context of a section 78 appeal. No other relevant planning arguments have been raised that lead me away from my conclusion that the appeal should be allowed.
12. The guidance in Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

13. For the above reasons and having had regard to all other matters raised, the appeal succeeds.

Hayden Baugh-Jones

Inspector