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## Appeal Decision

Site visit made on 18 June 2019

**by Laura Renaudon LLM LARTPI Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> July 2019**

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**Appeal Ref: APP/A3010/W/19/3224247**  
**15 Babworth Road, Retford DN22 7BP**

- 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 Richard Gill against the decision of Bassetlaw District Council.
  - The application Ref 18/01447/CONR, dated 9 November 2018, was refused by notice dated 28 December 2018.
  - The application sought planning permission to convert existing coach house to provide guest accommodation, demolish existing garage to front elevation of coach house and erect two storey double garage to provide a home office above for main dwelling, without complying with condition attached to planning permission Ref 18/00799/FUL, dated 18 September 2018.
  - The condition in dispute is No 9 which states that: *The gate(s) facing Myrtle Street shall be permanently locked in a closed position and only be brought into use in the case of an emergency.*
  - The reason given for the condition is: *To minimise the potential of an intensification of traffic through a seriously substandard access in the interest of highway safety.*
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. At the time of my site visit works had begun on site to alter the appearance of the Coach House and to construct a garage. Given my overall conclusions, I have not found it necessary to consider whether these works were consistent with the relevant planning permission, and the effect on any other conditions applying to the permission if so.

### Main Issue

3. The main issue is whether the condition is reasonable and necessary in the interests of highway safety.

### Reasons

4. Planning permission has recently been granted for works to convert an outbuilding, 'The Coach House' to the rear of the substantial detached Victorian dwelling at 15 Babworth Road in the Retford Conservation Area. The plans of the proposed works show that 3 guest bedrooms would be created in the Coach House, with sitting and kitchen area, as well as new, separately accessed,

- office space beyond a new double garage. A planning condition requires the guest accommodation to be occupied for purposes ancillary to the main dwelling.
5. The Coach House adjoins Myrtle Street, a fairly narrow road subject to a 30mph speed limit. The property as a whole is also accessed from Babworth Road to the front. Historically a through route for vehicles from Babworth Road to Myrtle Street existed within the property; however (without any reconfiguration of the existing garden area) the erection of the garage element of the conversion works would now prevent this.
  6. Although the conversion of the Coach House would result in accommodation intended for use as incidental to the main dwelling house, it would facilitate the occupation by more people, with scope for more traffic movements to and from the property. The appellant contends that the rear Myrtle Street entrance is the historic entrance to the property, supplying photographic evidence in support of that view. The fenestrations of the Coach House and indeed its name suggest that is correct. Nevertheless the existing gates to the Myrtle Street entrance abut immediately onto the carriageway, surrounded on each side by tall gate posts and high walls giving no visibility for a car driver, as opposed to a person on horseback or helming a carriage, exiting the site. The Local Highway Authority ('LHA') describe this access as "seriously substandard" and I have no reason to disagree.
  7. The effect of the garage extension works is to eliminate any scope for turning vehicles within the site, although the LHA explain that this is not a requirement. The Myrtle Street access does however exist and the present occupants of the appeal property are entitled to use it. Condition No 9 purports to remove this present entitlement, as well as preventing the use of the access by the additional occupants of the Coach House.
  8. Because of its siting and layout, I consider that the effect of the garage development would be to discourage use of the Myrtle Street entrance by the occupants of the principal dwelling, rather than by those guests of the Coach House. The relevant planning permission allows the conversion of the Coach House for use as ancillary accommodation, thus allowing a more intensive residential use of the property overall. Given this fresh planning chapter, I do not consider it is unreasonable to seek to control the effects of the development, even if that has the corresponding result of restricting existing use rights.
  9. Although the road is subject to a nominal speed limit of 30mph, I saw from my site visit that traffic speeds are very low and movements very infrequent, witnessing a single western-bound vehicle movement at the street's western junction with Babworth Road in a 15 minute period between 12.15 and 12.30, and a further two movements (one in each direction) between 12.50 and 13.05. Obviously this was a snapshot in time, and was not at the time of day when most traffic would be likely to use the street, particularly school children attending the nearby school that is accessed at the western end of Babworth Road.
  10. Narrow footways adjoin the properties facing onto the street, and there is some on-street parking that serves to slow down traffic. Parts of the street appeared impassable without driving onto the footway.

11. The appellant refers to 'crashmap' data suggesting that Myrtle Street has not been the scene of any traffic accidents warranting police reports for at least 20 years. His evidence of having used this vehicular access on a daily basis without incident for several years since purchasing the property is not disputed, although the LHA consider that the Babworth Road entrance has hitherto been the primary entrance into the site, and at the time of my site visit this appeared to be the case. It is more readily accessible from the main roads in the area, and the Babworth Road entrance to the property was open to the road at the time of my visit with the driveway adjacent to the side door into the house. By contrast the Myrtle Street entrance was rather more remote and the timber gates were closed.
12. During the course of the appeal the appellant suggested that the LHA's objections to the continued use of the Myrtle Street access could be overcome by other means than the requirement of condition No 9. This proposal consists of placing a 450mm 'blind spot' mirror on each gate post, giving visibility along Myrtle Street in both directions. The appellant also proposes installing electric gates with beacons alerting passing traffic to their imminent use.
13. The LHA consider that the use of mirrors could not be relied upon as they are likely to be ineffective at night, in times of inclement weather, and if not appropriately orientated. As to the orientation, the LHA refer to 'Manual for Streets' and a requirement for visibility splays of 11 metres in both directions at vehicle speeds of 10mph. No evidence has been supplied by the appellant supporting the efficacy of the proposed mirrors, and accordingly I cannot conclude that they would satisfactorily mitigate the LHA's road safety concerns, despite the slow and infrequent vehicle speeds in the area.
14. The LHA do not object to the installation of electric gates, but say that they would not address the lack of visibility at the Myrtle Street access, and that it is inappropriate for private landowners to seek to exert traffic control by the use of warning beacons. I agree with this assessment, and the existence of beacons cannot be assumed to affect the behaviour of other highway users. The Council have not commented on this proposal, but I am mindful that the proposed installation and use of traffic beacons may affect neighbouring occupants on Myrtle Street who may wish to comment, but who have had no opportunity to do so. I am also mindful that the property lies in a Conservation Area, and an assessment of the impact of the proposed mirrors, gates and beacons would be required.
15. No development plan policies were cited by the Council in its refusal of the present application, but paragraph 109 of the National Planning Policy Framework ('the Framework') provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. The effect of the condition is not to prevent or refuse the development. Paragraph 108 of the Framework requires that development decisions should ensure that safe and suitable accesses can be achieved, and paragraph 110 requires applications for development to create places that are safe and secure. The reasons for imposing condition No 9 relate to all these objectives.

## **Conclusion**

16. In conclusion, although existing, the Myrtle Street access to the property is sub-standard and the road adjoining it is used by particularly vulnerable road

users, school children. The opportunity sought by the LHA to limit its use in response to a fresh planning permission relating to the capacity of the residential, and hence vehicular, use at the appeal property was not unreasonable, and the condition is reasonable and necessary. Consequently, the appeal is dismissed.

*Laura Renaudon*

INSPECTOR