



Appeal Decision

Site Visit made on 3 February 2021

by S Thomas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st March 2021

Appeal Ref: APP/C1625/W/20/3262783

Land East of Stumpwell Lane, Howley, North Nibley, GL12 7PL

- 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 Mr Graham Beer (Treecreeper Arborists Ltd) against the decision of Stroud District Council.
- The application Ref S.20/0598/FUL, dated 13 March 2020, was refused by notice dated 10 July 2020.
- The development proposed is Demolition of a disused building and erection of two buildings to create a live/work unit.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the appellant submitted an amended site location plan and site plan¹ to incorporate a small parcel of land to the north of the site, which is required to achieve visibility splays to the north. The appellant indicates this access track is shared access land managed by the appellant and the neighbouring landowner. It is required to be kept unobstructed which is confirmed by the Solicitors letter² included with the appellant's evidence. Given this and the appellant's right of access over this land, I do not consider any party will be prejudiced by me accepting the amended plans. I have determined the appeal on that basis.

Main Issues

3. The main issues are (i) whether the site is a suitable location for the proposed development having regard to the development plan; and (ii) the effect of the proposed development on highway safety with particular regard to access and pedestrian safety.

Reasons

Location of development

4. The appeal site is located amongst open fields and contains an existing redundant stone building and borders Stumpwell Lane. Whilst there are nearby dwellings, the area is of rural character with a sporadic development pattern, containing individual and pockets of dwellings surrounded by open fields.

¹ Site Location Plan Drawing No P/001.1 Rev 02 & P002.0 Rev B

² Letter from Loxley Law firm dated 11 July 2014.

5. The site is located a considerable distance away from any defined settlement boundary in the Stroud District Local Plan (2015) (Local Plan) and lies in the open countryside. Policy CS15 of the Local Plan states that in order to protect the quality of the countryside, proposals outside identified settlement limits will not be permitted except for a number of exceptions. Of relevance to this appeal is criterion 1 and 2 which will permit development where it is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise within the District or it is essential to be located there in order to promote public enjoyment of the countryside and support the rural economy through employment.
6. The appellant runs a tree surgery and country management business. The inadequate separate storage units to house machinery for the business is preventing its successful operation and opportunities for future growth. Similarly, the current units have been subject to break ins. The proposal would involve the demolition of the existing structure and the creation of two buildings at the site to create a live work unit to serve the business where living accommodation and a storage unit could be provided on one site.
7. I acknowledge the site location has been chosen which would be in proximity to clients which would reduce commuting time. I also note that the reduction in commuting will reduce greenhouse gas emissions. Policy CP15 clearly aims to restrict development in the open countryside. It seems to me that to be deemed essential then the proposed use and location must be essential for the continued operation of the business. The site currently contains a disused stone building and is open in nature and contributes to the open countryside character. The proposal will replace the existing structure with a larger building and the construction of a large storage unit some distance away from it. This will lead to expansion of development away from the original building within a countryside setting.
8. The appellant's business has no direct link to the appeal site and there is no essential need for the business to be located on this site. Furthermore, whilst there may be a need for one integrated storage solution, I am not persuaded that the nature of the business requires an onsite residential presence. Whilst this maybe the case for other countryside uses such as Equestrian where there may be a need for an onsite residential presence for animal welfare issues, I do not consider it essential to the operation of the business subject of this appeal.
9. There is a dispute between the parties regarding the availability of alternative units. Whilst the Council's cited example may not be suitable, I am not persuaded the needs of the business are so unique that alternative storage accommodation in a more acceptable location could not be found. In addition, whilst I note the preference for 24-hour access so that an enhanced emergency call out service could be provided, this would unlikely to be a regular occurrence. In any event, on the occasions this is required, I do not see why an existing storage unit, or a purpose built one in a more suitable location could not facilitate this.
10. In summary, although I recognise this business provides a valued service and provides employment, I do not consider the nature of the proposal for a live work unit is essential for the maintenance or enhancement of this business in this location.

11. In respect of the second criterion of Policy CP15 the nature of the business does not promote public enjoyment of the countryside. Furthermore, it is not essential for the proposal development to be located on the appeal site to support the rural economy. Accordingly, the proposal would not satisfy this criterion.
12. Given the location, the live/work unit would be a considerable distance away from the nearest village of North Nibley. The main road has no footways and whilst there is a nearby Public Right of Way (PROW), this is through open fields and is unlit and is not a convenient form of access to the village. Similarly, whilst I acknowledge there is a PROW which links Stumpwell Lane to the B4060 where there is a bus stop, this again is an unmade path through open fields and is not a convenient access. In any event, there are no footways along Stumpwell Lane so pedestrians would have to walk along this road verge before accessing the PROW which would not be safe.
13. Due to the lack of supporting footway network, the live work unit would be functionally cut off from services and facilities. Given this, occupiers of the live work unit would be reliant on use of the private car. Whilst I note Paragraph 84 of the National Planning Policy Framework (the Framework) recognises that sites to meet local business needs in rural areas may have to be found beyond existing settlements and in locations not served by public transport, it states that it will be important to ensure it exploits opportunities to make a location more sustainable. This includes improving the scope for access on foot, by cycling or by public transport.
14. For the above reasons, I conclude the proposal would not be a suitable location for the proposed development and would be contrary to Policies CP15 and CP14 of the Local Plan. Amongst other things, these policies state that in order to protect the character of the countryside proposals outside settlement limits will not be permitted except where it is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise or it is essential to be located there in order to promote public enjoyment of the countryside and support the rural economy.
15. In addition, the policies seek to ensure that development will be supported where amongst other things it provides a safe, convenient access and suitable connections with existing footways. Also, the policies aim to ensure that development is at a location that is near to essential services and provides good transport links to services by means other than the private car.
16. Even if I were to agree with the appellant that the proposal would not conflict with Paragraph 79 of the Framework, this would not outweigh the conflict with the development strategy.

Highway Safety

17. The proposed access would be located to the south of the appeal site and would front onto Stumpwell Lane, which has a 60mph speed limit. Whilst there is acceptable visibility to the south from the junction, there is a dispute between the parties regarding visibility to the north. I observed on my visit that the existing building is on a bend and with the existing vegetation bordering Stumpwell Lane visibility is restricted.

18. The revised site plan submitted by the appellant confirms they have a right of access over the track to the north of the existing building and this is now within the red line boundary. Accordingly, this area can be controlled so that visibility is not interrupted. The proposed scheme includes removing the vegetation and tree along Stumpwell Lane and replacing with a grass verge. This will improve visibility to the north where the road bends. Having observed traffic approaching from the north from the proposed access point; considering the above, I am satisfied that sufficient visibility would be available and the proposed access would not result in unacceptable harm to highway safety.
19. However, the proposal would comprise a residential use at the site. Given the speed limit and lack of footways along this road, there is no safe and lit access for pedestrians and cyclists to access services and facilities. This will encourage walking on the highway verges, which given the speed of traffic along the road would give rise to unacceptable potential for conflict between pedestrians and vehicular traffic. Whilst the appellant refers to an extract from a recent appeal decision³, I do not have the details of the site or proposal before me. I therefore attach little weight to this as I cannot be sure it presents the same set of circumstances as this site. I note the appellant's reference to the 'sustainability trap', however in this case I conclude that allowing the use here would be unacceptable.
20. For the above reasons, I conclude the proposal would cause unacceptable harm to highway safety with regard to pedestrian safety. Accordingly, the proposal would conflict with Policies ES3, CP13 and CP14 of the Local Plan. Amongst other matters these policies require that development should not result in a detrimental impact on highway safety and that it provides a safe, convenient access and suitable connections with existing footways, local facilities, and public transport. For the above reasons the proposal would conflict with Paragraphs 108 and 110 of the Framework.

Other Matters

21. I acknowledge the personal circumstances of the appellant in relation to his business operation and am sympathetic to the need for more suitable premises. However, this does not justify the nature of this proposal in this particular location and does not outweigh the conflict with the development plan.
22. The site lies within the Cotswold Area of Outstanding Natural Beauty. Given the harm I have found in relation to the two main issues, I have not considered it necessary to consider the effects of the proposal on this designated landscape further as this is not a matter on which the appeal turns.

Conclusion

23. For the above reasons, the appeal does not succeed.

S Thomas

INSPECTOR

³ APP/Z1510/W/19/3242370