



Appeal Decision

Site visit made on 15 April 2021

by Elaine Benson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2021

Appeal Ref: APP/R1845/W/21/3266715

**Oak Tree Farm, Button Oak to Arley Road, Pound Green,
Bewdley DY12 3LG**

- 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 Mrs J Rose against the decision of Wyre Forest District Council.
 - The application Ref 20/0914/FUL, dated 6 November 2020, was refused by notice dated 16 December 2020.
 - The development proposed is new driveway to serve barn conversion utilising existing agricultural field access from road.
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Decision

1. The appeal is allowed and planning permission is granted for new driveway to serve barn conversion utilising existing agricultural field access from road at Oak Tree Farm, Button Oak to Arley Road, Pound Green, Bewdley DY12 3LG in accordance with the terms of the application, Ref 20/0914/FUL, dated 6 November 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 902 08 Rev B, 902 09 and 902 10.
 - 3) Prior to the first use of the driveway hereby approved, the visibility splays shown on Drawing No. 902 08 Rev B shall be provided and thereafter retained as approved.
 - 4) No shrubs, trees or other vegetation shall be allowed to grow above 0.6m metres in height within the sight lines referred to in condition 3.
 - 5) Prior to the first use of the driveway hereby approved, the vehicular access from the edge of the carriageway to the gate shall be constructed, surfaced and drained in accordance with details to be submitted to and approved by the Local Planning Authority. Construction should be completed in accordance with the approved details. Any works in the highway must be carried out by the County Council's authorised contractor only.

Main Issues

2. The main issues in this appeal are the effect of the proposal on the character and appearance of the surrounding area and on highway safety and its effect on the living conditions of neighbouring occupiers.

Reasons

3. The wider site containing the appeal barn conversion is Oak Tree Farm bungalow with 2 agricultural buildings converted to residential use. As approved, the appeal barn is reached by a shared access to its south-east which runs between and is shared with the other buildings. The proposal is to provide a dedicated access to the barn conversion from the road by using an existing gated field access and track.

Highway safety

4. The evidence, including historic maps and correspondence, is sufficient to indicate that the appeal access is a longstanding field access. The adjacent road from Button Oak to Arley Road is subject to a speed limit of 30 mph. There is technical evidence of low traffic frequency and speeds. The nearby bend in the road together with the access to Pound Green Airfield and Pound Green Equestrian, the presence of other dwellings in the locality and a number of field accesses would indicate to passing motorists the potential for vehicles to enter the road at various locations. The width of the verge is sufficient to enable vehicles to wait until the road is clear. The visibility splays would be in excess of that required for the 30mph speed limit and satisfactory views could be obtained in both directions. I am satisfied that there are no hedgerows which would affect visibility.
5. The evidence has not convincingly demonstrated why sight lines falling in part over common land in this rural location would be unacceptable, particularly as other properties appear to have the same arrangement and the land is well-maintained. Furthermore, whether or not the existing access illegally crosses common land is not a matter before me in this appeal. Planning permission does not remove the requirement to comply with other legislation.
6. My observations and the absence of any convincing evidence to the contrary lead me to conclude that the proposed use of the existing field access point would not result in any harm to highway safety. Paragraph 109 of the National Planning Policy Framework (the Framework) advises that '*development proposals should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative effects on the road network would be severe*'.
7. Notwithstanding that the Parish Council consider that the access is inadequate, the evidence is convincing that the appeal proposal would have no unacceptable impact or cumulative effects on highway safety. Therefore, there would be no conflict with the highway safety requirements of Policy SAL.CC1 of the Site Allocations and Policies Local Plan (SAPLP) or the Framework.

Character and appearance

8. The local area is not included within any specific landscape designation. In my judgement it could not reasonably be described as 'untouched pasture land given the cluster of residential buildings, their gardens, a number of access tracks and the access to the Pound Green Airfield and Pound Green Equestrian which lie on the opposite side of the road. Nonetheless, it has a rural character and appearance.
9. The landscape around the appeal property and its neighbours is undulating and the field is surrounded by trees and hedges which screen the site from

footpaths in the vicinity. As a result, there would be no close or far reaching views of the access drive. If surfaced with a low-key material such as scalplings above a sub-base, as is proposed, the appearance of the access would not be out of place in its context. Furthermore, under permitted development, a hard-surfaced track across the field in the same or a similar location could be provided for an agricultural use. There is no convincing evidence to demonstrate that the proposed access to Oak Tree Farm would be any more prominent within its surroundings than an agricultural track.

10. Based on the evidence before me I conclude that there would be no harm to the rural character and appearance of the surrounding countryside and therefore no conflict with Policy CP12 of the Wyre Forest Core Strategy (CS) which relates to the protection and enhancement of landscape character. The proposal would be in broad compliance with the criterion for preserving local distinctiveness set out in Policy SAL.UP7 of the SAPLP. CS Policy CP11 is referred to in the decision notice. However, as it relates to design and local distinctiveness, I consider it has less relevance to this proposal for a vehicular access than the foregoing policies.

Living conditions

11. The proposed route of the access drive would pass behind and to the side of the garden belonging to the neighbouring property, Gable End, and it is necessary to consider the impact of its residential use, including the potential for noise and light disturbance caused by vehicles entering and leaving the appeal property.
12. Gable End stands closer to the adjacent road than it does to the proposed access. Having regard to its position and the location of the airfield and equestrian centre opposite, the area could not reasonably be described as a quiet location. The size of Gable End's plot and the strip of land between its boundary and the track results in a substantial distance between the house and the proposed access. This distance and the timber fence would help mitigate against any noise disturbance from passing vehicles.
13. In my view the frequency of the use of the access to serve a one-bedroom unit is unlikely to differ significantly from an agricultural use. Indeed, during certain times of the year, such as harvest time, the agricultural machinery used would create a significant amount of noise. This is however likely to only occur during the daylight hours. Nonetheless, it appears that there are no restrictions on any agricultural uses of the land, and some associated machinery passing along the track may well cause more disturbance to the residents of Gable End.
14. Disturbance from passing headlights, particularly during the hours of darkness could cause noise and light disturbance to the residents of Gable End. However, the close board fencing around the neighbour's side boundary would limit or remove the potential for unacceptable light disturbance from the straight part of the approach to the appeal property which is in my view the point at which light nuisance would be at its greatest. This fence would remain under the control of the occupiers of Gable End.
15. The proposed access would provide a minor benefit to the living conditions of the other properties on the Oak Tree Farm site which are close to the existing access by removing nearer vehicle movements associated with the appeal property. Taking this into account alongside all of these other matters, I

conclude that the appeal proposal would not cause unacceptable harm to the living conditions of the occupiers of Gable End.

Other Matters

16. It is noted that there is an existing, alternative access to the barn conversion and that there may have been landscaping or other works carried out in the area close to the access gate. Nonetheless, I am required to determine the appeal on its own merits based upon the existing circumstances. Concerns about potential future development would be addressed at the time of any future application and can have little bearing on this decision.

Conditions

17. A condition identifying the approved plans is required in the interests of proper planning, for the avoidance of doubt and to preserve the character and appearance of the surrounding area. The long-term retention of clear visibility at the access and details of the surfacing and draining of the access across the verge and adjacent to the road are required by condition in the interests of highway safety. I have amended the Council's suggested wording in the interest of clarity and precision.
18. I have not imposed the suggested condition requiring the track and parking spaces to serve the barn conversion to be properly consolidated, surfaced and drained. The surfacing material is identified in the application and is necessary to maintain the rural character of the field. Furthermore, parking provision is not the subject of this appeal and has been previously approved.

Conclusion

19. For the reasons set out above, I conclude that the proposal conforms with the development plan read as a whole and accords with the Framework. Accordingly, the appeal is allowed.

Elaine Benson

INSPECTOR