



Appeal Decision

Site visit made on 22 February 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th March 2022.

Appeal Ref: APP/G1630/W/21/3286505

Land at Hygrove House, Main Road, Minsterworth GL2 8JG

- 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 Abbeycare Group and Estate of Hugh Dowding against the decision of Tewkesbury Borough Council.
 - The application Ref 19/01025/FUL, dated 20 October 2019, was refused by notice dated 11 June 2021.
 - The development proposed is the provision of an agricultural access track, including the part retention of works and construction of a new overspill car parking area for Hygrove House.
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Decision

1. The appeal is allowed and planning permission is granted for the provision of an agricultural access track, including the part retention of works and construction of a new overspill car parking area for Hygrove House, at Land at Hygrove House Main Road, Minsterworth GL2 8JG in accordance with the terms of the application, Ref 19/01025/FUL, dated 20 October 2019, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. At the time of my site visit, parts of the proposed track had been excavated, but not surfaced. Notwithstanding this, the appeal has been determined on the basis of the submitted drawings.
3. The Council issued a split decision on the application subject to this appeal, approving the car parking area, subject to conditions, and refusing the agricultural access track. However, section 79(1)(b) of the Town and Country Planning Act 1990 states that on an appeal under section 78 the 'Secretary of State may reverse or vary any part of the decision of the local planning authority (whether the appeal relates to that part of it or not) and may deal with the application as if it had been made to him in the first instance'. Therefore, this appeal will consider all elements of the proposed development.
4. The Tewkesbury Borough Plan 2011-2031 (TBP) is an emerging plan but has reached an advanced stage in the examination process. I am informed that Policy AGR1 of the TBP has received no objections and is not part of the list of policies requiring main modifications. Policy AGR1 is broadly consistent with the National Planning Policy Framework (the Framework) in that it seeks to support the development and diversification of agricultural businesses, but in a way that is sensitive to its surroundings. Therefore, in accordance with paragraph 48 of the Framework, I afford emerging Policy AGR1 of the TBP moderate weight.

Main Issue

5. The main issue is the effect of the proposed car parking area and agricultural access track on the character and appearance of the surrounding area.

Reasons

Background

6. The Council have concluded that the proposed car parking area would be acceptable. Based on the evidence before me and the observations I made on site, I find that the car parking area would not be harmful to the character and appearance of the surrounding area. My reasoning therefore focuses on the matter in dispute, which is the access track.

Character and Appearance

7. The application relates to a field south of Hygrove House. It is immediately surrounded by other fields, with the A48 to the south and east, and Hygrove Lane to the north. Hygrove House is in use as a residential institution and there are a number of gypsy and traveller sites off Hygrove Lane and off a lane to the south of the site, which the main parties refer to as Starcroft Lane. The proposed track would run from a pre-existing access and section of track off Starcroft Lane to the proposed new car park just south of Hygrove House.
8. Visibility of the proposed track from outside of the immediate area would be limited, with trees and hedgerow around the field edges providing a good level of screening. The track would be visible from parts of Hygrove Lane, but at a distance. It would also be visible from the public right of way (PROW) which runs to the east of the proposed track. The track would have the appearance of a modest rural track with a central grass strip and would not be raised above the level of the land. As such, the visual impact of the proposed track would be limited and it would not look out of keeping with its rural surroundings.
9. There is a section of existing track along the eastern field boundary which joins the access from Starcroft Lane, but this appears to be informal and unsurfaced. I acknowledge that the proposed track would cut across the field rather than following the hedge line. In this case, following the hedge line would result in a longer track, closer to the PROW, without any significant reduction in visual impact, so would not necessarily be a better option.
10. One of the criteria of emerging Policy AGR1 of the TBP requires proposals for new agricultural development to be reasonably necessary and designed for the purposes of agriculture. The appellants state that the existing track off Starcroft Lane is unsuitable for use during wetter winter months. They also state that Hygrove Lane is narrow, poorly surfaced and shared with Hygrove House and gypsy and traveller sites, resulting in conflict between agricultural machinery and other vehicles.
11. The appellants seek a new separate access to remove the conflict and to allow implementation of improved security measures, which would include closing the existing access to the fields from Highgrove Lane. In addition, the appellants state that the proposed hard surfaced track would overcome poor winter ground conditions and its route would provide better access to the wider holding. By ending the track at the new car park, the appellants assert that it can serve both the primary purpose of agriculture and maintaining the land and

a secondary purpose of hobby farming associated with the residential rehabilitation clinic operating from Highgrove House. Despite the appellants statement, the Council have raised doubts over the intended purpose of the track.

12. I have been presented with no substantive evidence from the appellants regarding the scale and nature of the agricultural operation which the track would serve. Neither have I been presented with evidence from the Council to support their doubts regarding the intended purpose of the track. I have made my assessment on the basis of the information available to me, including observations made during my site visit. The existing unsurfaced track along the eastern field boundary was waterlogged at the time of my visit. It is evident that Hygrove Lane is a less than ideal access route and separating agricultural vehicles from other road users would be of potential benefit to both. The proposed track has the appearance of being designed for agriculture and would seem to be reasonably necessary for purposes related to agriculture. The proposed track can therefore meet the requirements of emerging Policy AGR1 of the TBP.
13. Use of the proposed track by agricultural vehicles is likely to be intermittent and relatively infrequent, resulting in limited visual impact. The scale and design of the proposed track is not necessarily suitable for other vehicles, but should the track be used regularly and frequently, for example to provide general vehicle access to Hygrove House, the use could potentially have a negative visual impact on the surroundings. This potential impact could be managed by the imposition of a condition restricting use of the proposed track to agricultural purposes only. The appellants have accepted the imposition of such a condition.
14. I conclude that the proposed car parking area and agricultural access track would not cause significant harm to the character and appearance of the surrounding area. Consequently, the development would comply with Policy SD6 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011 – 2031 and emerging Policy AGR1 of the TBP, which together, amongst other things, seek to protect landscape character for its own intrinsic beauty and support reasonably necessary agricultural development whilst minimising adverse impacts on the rural landscape. In this regard, it would also accord with the Framework.

Other Matter

15. The appellants make reference to saved policy AGR5. However, this relates to agricultural buildings, so is not relevant to the proposal subject to this appeal.

Conditions

16. The Council have suggested conditions, which the appellant has been made aware of and raised no objections to. I have considered the suggested conditions and amended them as necessary in the interests of precision and clarity in order to comply with advice in the Planning Practice Guidance.
17. As elements of the proposed development have already commenced it is not necessary to impose the standard timescale condition. I have applied the standard plans condition to provide certainty. I have also applied a condition requiring approval of details of any lighting which may be needed in association

with the development. This is necessary to ensure the development does not have an adverse impact on the rural character of the area or on wildlife. Finally, I have applied a condition restricting use of the track to agricultural purposes only, the reason for which has been set out above.

Conclusion

18. For the reasons given above and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed.

Helen Davies

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be constructed in accordance with the following approved plans:
 - PL-19-312-01 Rev A – Existing Site Location Plan
 - PL-19-312-03 Rev B - Proposed Block Plan and Section Through Path and Carpark
 - PL-19-312-05 Rev A – Proposed Plan of Car Park
2. Details of any external lighting required in association with the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority prior to installation on site. The lighting shall be installed and retained thereafter in accordance with the approved details.
3. The agricultural track hereby permitted shall be used only in association with the agricultural use of the surrounding land, and for no other purpose.

*****End of Conditions*****