



Appeal Decision

Site visit made on 20 September 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2022

Appeal Ref: APP/P0119/W/22/3299603

Gist Limited, Short Way, Thornbury, BS35 3UT

- 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 HBPW LLP against the decision of South Gloucestershire Council.
 - The application Ref P21/03868/F, dated 20 May 2021, was refused by notice dated 25 November 2021.
 - The development proposed is the creation of vehicular access onto classified highway (Class C) for emergency use only (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's decision notice as this more accurately and concisely describes the development. This description has also been used by the appellant on their appeal form.
3. The appellant confirms in their submission that the development has been completed. This was confirmed during my site visit where I saw the completed access. Therefore, permission is sought retrospectively.

Main Issue

4. The main issue is the effect of the development on highway safety.

Reasons

5. Paragraph 110 of the National Planning Policy Framework (the Framework) states that in assessing applications for development it should be ensured, amongst other matters, that safe and suitable access can be achieved for all users. Furthermore, paragraph 111 indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
6. The appeal site comprises a commercial premises, known as Gist Limited, located on a commercial estate to the south of Midland Way. Gist Limited is accessed via Cooper Road located to the west of the appeal site. The development seeks permission for an emergency access directly from the Gist Limited site on to Midland Way. Midland Way is a two-lane road which skirts the southern edge of Thornbury and provides access to the commercial estate and supermarket. Some on street parking takes place on Midland Way however largely parking is restricted by double yellow lines.

7. At the time of my site visit a number of cars passed the appeal site from both directions along Midland Way. I appreciate my site visit provided only a snap shot of highway conditions. Nevertheless, based on my observations, it would be reasonable to conclude that the levels of traffic would increase at peak hours when traffic is at its heaviest i.e., in the mornings and evenings when most people commute.
8. The development creates a separate access to Gist Limited, which shares a separate access with several commercial properties. The emergency access was constructed in consultation with the Council to facilitate access to Gist Limited whilst work was being undertaken on Cooper Road that required its closure. In order to facilitate a safe emergency access, three-way traffic lights were required to allow HGVs to swing out onto the opposite side of the road.
9. The geometry of the junction requires traffic turning right from Midland Way into the appeal site to execute a sharp turn. This would be a challenging manoeuvre for an HGV to execute in one movement. Consequently, the design means that vehicles accessing and egressing the site would likely do so from the east. As noted by both parties in order to turn east out of the site, HGVs are required to cross on to the other side of the road thus impacting on traffic travelling in both directions along Midland Way. To undertake this manoeuvre safely traffic lights would be required. Additionally, due to a bend in the road to the east, visibility would be limited and I have not been provided with any details of visibility splays which indicate that sufficient sightlines could be achieved. As such, vehicles or cyclists travelling from the east would have restricted visibility of vehicles using the access. This would be significantly harmful to highway safety.
10. I have had regard to the appellants comments that the access would only be used to facilitate emergency vehicles and should public roads to the site become blocked due to the importance of continuing food deliveries. Their submission also acknowledges that the access does not meet required standards for highway safety however the appellant considers that such requirements should not apply to emergency accesses.
11. Whilst it may be the appellants intention to only use the access on limited occasions, I have not been provided with any conditions that would limit its use. Additionally, I do not consider that such a condition would be sufficiently precise in order to limit the use of the access to emergencies and occasional road blockages and meet the six tests¹ set out in the Planning Practice Guidance. Even if I were to consider the access as only being used on limited occasions, it would be unlikely that in emergency events that traffic controls could be put in place to ensure safe access to the site for emergency vehicles.
12. I have had regard to the discussion undertaken between the Council and the appellant that led to the access being constructed. However, it is clear that the access was a very short-term measure for works being undertaken on the nearby highway. The access being in place permanently and without a mechanism to restrict its use would be harmful to highway safety in the way I have detailed above.
13. For the above reasons the proposal would be detrimental to highway safety. The proposal would therefore conflict with South Gloucestershire Local Plan

¹ Use of planning conditions Paragraph: 003 Reference ID: 21a003-20190723

Core Strategy (2013) policies CS1 and CS8 and South Gloucestershire Local Plan: Policies, Sites and Places Plan (2017) policy PSP11 which seek, amongst other things, to ensure that development would not have an unacceptable effect on highway and road safety. The proposal also conflicts with paragraph 111 of the National Planning Policy Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

Conclusion

14. For the reasons given above, and having regard to all other matters, I conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR