



Appeal Decision

Site visit made on 6 July 2023

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 September 2023

Appeal Ref: APP/F1610/W/23/3318025

Land and buildings west of Stonebank, Ablington, Bibury, Gloucestershire GL7 5NU

- 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 The Sailspire Partnership Ltd against the decision of Cotswold District Council.
 - The application Ref 21/04298/FUL, dated 11 November 2021, was refused by notice dated 15 December 2022.
 - The development proposed is erection of new build open market dwelling, conversion of existing barns to ancillary accommodation, new access and associated development.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have used the description of development as it appears on the Council's Decision notice, noting that the appellant agrees to its use for the purposes of the appeal.

Main Issues

3. The main issues are:
 - The effect on highway safety with regards visibility
 - Whether the restricted byway would provide a safe and suitable access to and from the site for all users.

Reasons

Visibility

4. The appeal site is located on a narrow unmade farm track which is a restricted byway (PROW KBY5). The track forms a junction with a narrow rural road with no footpaths that is subject to the national speed limit.
5. Whilst the access point from the site onto the restricted byway would be on a relatively straight section of track with a reasonable level of visibility, the restricted byway joins the road that runs through the village in a place that is close to a bend and a dip in the road. Roadside vegetation and walls limit visibility in both directions.

6. In order to provide safe access onto the highway the Highway Authority require visibility splays of 215 metres in each direction from a 2.4 metre set back from the highway boundary. Even when applying the 85th percentile speeds following a speed survey the recommended visibility splays would not be achieved, as acknowledged by the appellant. Whilst the required visibility splays can be provided in the horizontal plane, vertical visibility is obstructed by existing ground levels.
7. The appellant has suggested that the visibility splays are nevertheless acceptable. However, given the layout of the junction in conjunction with the reduced visibility and based on the evidence before me and my observations on my site visit, I am not satisfied that a safe and suitable access would be achieved in this case and the proposal would be likely to result in harm to highway safety with regards visibility.
8. In coming to this view I am aware that the appellant has identified that the access is currently used without vehicle incidents or collisions. Nonetheless this does not alter my view of the inadequacies of the access nor the importance of providing suitable levels of visibility.

Use of a Restricted Byway

9. The byway that provides access to the site is a restricted byway legally available to use by those on foot, bicycle and horseback. The appellant has identified a right of vehicular access over the restricted byway to access the site. Be that as it may, the appellant acknowledges that the majority of trips generated by the proposed dwelling would be undertaken by car and that the change of use of the land would increase vehicle movements to and from the site. There would therefore be an increase in vehicular traffic on a restricted byway which is not intended for such use.
10. Given the characteristics of the track there is a potential for conflict between users, increasing the risk to the safety of pedestrians, cyclists and horse riders. The appellant has identified that the site entrance would provide an informal passing place on the restricted byway. I do not consider this sufficient to mitigate the harm.
11. The appellant has referenced another planning permission in support of their case. I do not know the full circumstances in which the development was given planning permission. However, it is different to the case before me in terms of location, type of development and access with it relating to a bridleway rather than a restricted byway. In any event, each case is determined on its own merits and my assessment is based on the information before me.

Conclusion on Main Issues

12. The development would have a harmful impact on highway safety with regards visibility. The restricted byway would also fail to provide a safe and suitable access to and from the site for all users. It would therefore conflict with the part of Policy INF4 of the Cotswold District Local Plan which supports development where it provides safe and suitable access. It would also conflict with the part of the National Planning Policy Framework that requires new development to provide safe and suitable access to the site for all users.

Other Matters

13. The site lies within the Ablington Conservation Area and is around 30 metres away from John Brown's Cottage, a Grade II Listed Building. The site also lies within the Cotswolds Area of Outstanding Natural Beauty (AONB). The Council has determined that the proposed development would preserve the character and appearance of the heritage assets and safeguard the special landscape qualities of the AONB. Based on the evidence before me, I find no reason to take a different view.
14. I note the representations made by interested parties that raise additional concerns. However, given my findings it is not necessary for me to consider these matters in detail.

Conclusion

15. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR