



Appeal Decision

Site visit made on 5 September 2023

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date 18 October 2023

Appeal Ref: APP/R3705/C/22/3305777

Old Rail Farm, Hurley Common, Hurley CV9 2LS

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (the Act).
 - The appeal is made by Mr Gary Robert Stibbs against an enforcement notice issued by North Warwickshire Borough Council.
 - The notice was issued on 28 July 2022.
 - The breach of planning control as alleged in the notice is:
 - (i) Without planning permission, the change of use of a redundant agricultural building to stables, feed storage, office, mess room, commercial horse-rug washing, dog grooming and associated works. The building is shown in BLUE on the attached plan, within the land edged RED.
 - The requirements of the notice are to:
 - (i) Cease the use of the building, shown BLUE, withing[sic] the area of land edged RED for horse rug washing, dog grooming and associated incidental office use.
 - (ii) Remove all associated utilities, fixtures, and fittings in connection with (1) above, from the land edged RED.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected and varied by:
 - In section 3(i) insert the word "material" between the words "the" and "change".
 - In section 5(i) delete the letter "g" from the word withing.
2. Subject to the corrections and variations the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the Act.

The Enforcement Notice

3. Section 176(1) of the Act provides a wide-ranging power to correct or vary the terms of an enforcement notice. In section 3(i) of the notice, I have added the word "material" to clarify the breach of planning control and in section 5(i), I have removed the letter "g" from the word withing for grammatical correctness. I am satisfied there is no injustice to either party in this regard.

Appeal on ground (a)

4. The ground of appeal is that planning permission should be granted for the change of use of a redundant agricultural building to stables, feed storage,

office, mess room, commercial horse-rug washing, dog grooming and associated works.

Main issue

5. The main issue is the effect of the development on highway safety with regards to access.

Reasons

6. The appeal site is accessed from a track which is mostly single vehicle width, with some passing places, and leads to a junction with Hurley Common Road that has a 40 miles per hour speed limit. Along with the appeal site, the single width access track is used to access a Severn Trent Water Facility, a Ministry of Defence shooting range and the properties of 31, 33 and 33a Hurley Common.
7. The appellant indicates that the horse-rug washing business generates two vehicle movements on a Wednesday with the dog grooming business generating around 12 vehicle movements per day on a Friday and a Saturday. This equates to 26 vehicle movements a week which the appellant states would actually be an increase of 16 vehicle movements as 10 of the movements would be made anyway by the appellants daughter if the businesses were located off the site. The appellant further claims that the overall traffic generation to and from the site results in a reduction of 12 movements per week as 28 vehicle movements associated with external horse care would be removed.
8. There is a lack of compelling evidence before me which provides clear details of the exact traffic generation associated with the development. There is no breakdown on the type and size of vehicles that come to and from the site, or whether there are other vehicles such as delivery vehicles that visit the site. There is no clear information on those trips associated with external horse care and how this actually results in a reduction of vehicle movements from the site and also how much traffic generation resulted from the previous use as agriculture. Minimal evidence is provided on the business model of the operations at the site and whether there are expansion plans which could result in additional vehicle trips. From the evidence presented to me, I consider that the development subject of the notice does increase the number of vehicle trips to and from the site.
9. At the junction where the access road meets Hurley Common Road, the Council consider a visibility splay of 120 metres (m) is required with the appellant implying that a visibility of 65m is required. The appellant states that a visibility of 45m is provided to the south of the junction with visibility in excess of 120m to the north, although this appears to only relate to visibility from a heavy goods vehicle at the junction. I saw at my site visit vehicles parked along Hurley Common Road which further restricts visibility from the junction. Data submitted by the appellant suggests that average speeds along Hurley Common Road are within the speed limit and there have been no recorded personal injury collisions in the last 23 years. Nevertheless, the visibility from the junction is restricted by features such as walls, fencing and parked vehicles. The junction with Hurley Common Road is therefore unsuitable and detrimental to highway users given the restricted visibility and the increase in vehicle trips to and from the site.

10. The section of access road by the junction with Hurley Common Road is single vehicle width. There would be occasions where two vehicles would meet each other at this point. This would result in either vehicles having to wait on Hurley Common Road for another vehicle to exit the junction or require an unusual manoeuvre by reversing back along the access road possibly reversing back onto Hurley Common Road. This type of situation would be hazardous and harmful to the safety of highway users. Given the operations of the development, it is unlikely that there would be many pedestrians visiting the site. Nevertheless, should pedestrians wish to visit the site, due to the narrow width of the access road and lack of formal footpath, there would be conflict should vehicles wish to pass any pedestrians along the access.
11. The appellants statement of case includes documents such as the Traffic Impact Note and I have had regard to matters raised including on traffic movements and generation, site access, highway safety, safety audit, road surface damage and traffic surveys. These matters however do not alter my findings above and the harm to highway safety. My attention has also been drawn to residential holiday lets¹ at the appeal site, which could attract two to four vehicle trips a day. There is minimal information on these holiday lets including where they would be located and whether the vehicle trips associated with these holiday lets would be an addition to the vehicle trips associated with the development subject of this appeal.
12. The development does have a harmful effect on highway safety with regards to the access. The development is contrary to Policy LP13 of the North Warwickshire Local Plan 2021 and the National Planning Policy Framework (the Framework) which seeks development to not cause an unacceptable adverse impact to the safe and free movement of pedestrian, vehicular or other traffic.

Other matters

13. The development is the re-use of an existing building and is not inappropriate development in the Green Belt. It also assists with the diversification of the rural economy, creating jobs and supporting a prosperous economy. Given the size of the operations, I attribute minimal weight to these benefits.

Conclusion

14. The benefits described above do not outweigh the significant harm I have identified with regards to highway safety. The development conflicts with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding.
15. I therefore conclude that the appeal on ground (a) fails.

Appeal on ground (g)

16. Ground (g) is that the period for compliance with the notice falls short of what is reasonable. In the notice, the time to comply with the requirements is three months.
17. The appellant is seeking the time compliance to be changed to 12 months as more time is required in order to find alternative homes for the horses stabled in the building and for the other activities. The requirements of the notice do

¹ Referenced consent PAP/2018/0232

not require alternative homes to be found for horses. Given the extent of the work that would be needed to be undertaken to meet the requirements, I consider a three month period to comply does not fall short of what is reasonable.

18. The appeal on ground (g) therefore fails.

Chris Baxter

INSPECTOR