



Appeal Decision

Site visit made on 27 November 2023

by D Moore BSc (HONS), PGDip, MCD, MRTPI, IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 January 2024

Appeal Ref: APP/F1610/C/23/3319671

Land at Barn, West End Farm, Poole Keynes

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended.
- The appeal is made by Mr Andrew Crotty against an enforcement notice issued by Cotswold District Council.
- The notice was issued on 1 March 2023.
- The breach of planning control as alleged in the notice is without planning permission, the creation of a vehicular access from the Land onto a classified road and associated earth works conducted in order to facilitate the vehicular access.
- The requirements of the notice are to:
 - 1) Cease the use of the Land for the purposes of vehicular access and egress from, or to, the classified road;
 - 2) Demolish the track as shown on appendix 1 and remove the constituent elements from the site. Then, reinstate the verge and ditch to the height, gradient and profile that it was immediately prior to the unauthorised earth works that were undertaken to create the access and reinstate a hedge to match the adjacent and lay grass seed to the remaining land.
- The periods for compliance with the requirements is six months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the 1990 Act as amended. 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.

Summary of Decision: The appeal is dismissed, and the enforcement notice is upheld in the terms set out below in the Formal Decision.

Main Issue

1. The terms of the deemed planning application are derived from the allegation. Hence, planning permission is sought for the creation of a vehicular access from the Land onto a classified road and associated earth works conducted in order to facilitate the vehicular access. The main issue is the effect of the development on highway safety.

Reasons

2. The Land identified by the plan attached to the enforcement notice is an irregular-shaped parcel of land occupied by a steel-framed barn. A new access has been created in the form of a vehicle crossover to the adjoining classified road. The road in this location is derestricted with a speed limit of 60 mph. There is no street lighting and there are no pedestrian footways, only grass verges on each side of the carriageway.
3. To the south-west of the appeal site are former agricultural buildings that have been converted into dwellings served by a separate access. There is a further field access approximately 10 metres to the north-east of the appeal site. I also saw another access on the opposite side of the lane.

4. The appellant has submitted a Technical Note, dated March 2023. This includes an automated traffic count that was carried out adjacent to the new access over a period of one week during term time. The data from the traffic count has been used to calculate the extent of the visibility splays having regard to the relevant methodologies¹. The required visibility splays, based on the recommended parameters, are calculated as 2.4 metres by 46.2 metres in both directions. The appellant says that the emerging visibility splays can be achieved within land under their control. It is argued that visibility from the access would be acceptable and, thus, would be safe and suitable.
5. The Council does not dispute that the required visibility is achievable, provided the existing vegetation is removed from within the sight lines and pedestrian visibility splays are provided. It would also be necessary to require the visibility splays to be maintained and ensure that there is no obstruction over 0.6 metres, as required by the Manual for Gloucestershire Streets.
6. Nonetheless, the Council maintains that the proliferation of accesses along this section of the highway will lead to conditions of danger to the detriment of highway safety. This is because there would be a total of four direct frontage access points within a length of approximately 65 metres. The Council considers this is likely to lead to driver confusion as it may not be clear which access an indicating vehicle intends to use. It is also pointed out that vehicles in their respective accesses would interrupt visibility sight lines.
7. Furthermore, the Council argues that the design of the access is unacceptable as it is formed of loose gravel. The Manual for Gloucestershire Streets requires accesses to be formed of bound materials for the first 5 metres. This is to ensure there would be no transfer of material onto the highway, which can lead to safety issues such as reduced traction. In addition, I saw that the access has been constructed over a drainage ditch. It was not possible to establish whether a culvert has been incorporated and, if so, whether this would be adequate to deal with any runoff.
8. The appellant counters that, although the appeal access and the existing field access would be about 10 metres apart, they would be single private accesses that would be extremely low trafficked, and the chance of conflict would be minimal. Also, vehicles using the accesses would only be travelling at 5-10 mph with full inter-visibility for each vehicle, provided sight lines were achieved. Moreover, there is no recent pattern or history of collisions in the immediate locality of the site.
9. I accept that the required sight lines could be achieved at the access and that a planning condition could be used to secure their provision and ongoing retention. On this basis, and having regard to the appellant's evidence, I consider the concerns in relation to the proliferation of accesses could be overcome. However, it would also be necessary to ensure a suitable culvert had been provided to avoid drainage issues. It may be that the access has to be reconstructed to accommodate this. In addition, the surface treatment would need to be replaced with bound material to prevent any transfer of gravel.
10. I have considered whether these additional matters could be secured through planning conditions. However, without any detail of the size and construction of the culvert, I cannot be certain that the necessary alterations could be

¹ Design Manual for Roads and Bridges, Manual for Streets 1 and 2.

accommodated. Moreover, the combination of the drainage condition plus a surface treatment condition would likely amount to the total reconstruction of the development. I consider this would be unreasonable as it would be tantamount to granting planning permission and then removing it through conditions.

11. Overall, I consider that the development as constructed would not provide a safe and suitable access for all users of the highway due to its method of construction. I am not satisfied that planning conditions would address these matters as any such conditions would likely be unreasonable.
12. I note the appellant's review of other planning applications in the district that involved the creation of private accesses. It is argued that there is no precedent for junction separation as a primary reason for refusal. The details of the applications listed are not before me and I cannot make a judgement about their relevance or matters of consistency in the Council's decision making. In any event, in this case, it is the detail of construction of the access that is my main concern.
13. The appellant explains the unauthorised development is the only means of accessing the agricultural building. However, it is not clear why access could not be negotiated through the adjoining land, and I afford this consideration limited weight.

Conclusion

14. The development would not provide safe and suitable access for all users of the highway and, consequently, would not accord with Policy INF4 of the Cotswold District Local Plan (2018), which seeks to ensure development creates safe and secure layouts which minimise conflict between road users, nor Section 9 of the National Planning Policy Framework (December 2023) insofar as it seeks to avoid an unacceptable impact on highway safety. The development would not accord with the development plan as a whole and there are no other considerations that would outweigh that conflict.
15. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Formal Decision

16. 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 1990 Act as amended.

D Moore
Inspector