



Appeal Decision

Site visit made on 23 September 2014

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 October 2014

Appeal Ref: APP/P1615/A/14/2221988

Dean Meadows, Gloucester Road, Mitcheldean

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mr Luke Freeman of Woodfield Developments Ltd against the decision of Forest of Dean District Council.
 - The application Ref.P0366/14/FUL, dated 4 March 2014, was refused by notice dated 11 June 2014.
 - The application sought planning permission for the erection of 49 dwellings (minor material amendment) to permission P0086/09/FUL substitution of house types on plots 1, 5, 6, 7, 8, 9, 10, 11, 12 and 49 without complying with a condition attached to planning permission Ref.P1280/12/FUL, dated 7 December 2012.
 - The condition in dispute is No.14 which states that: Prior to the occupation of any dwelling full engineering details for the provision of a controlled pedestrian crossing facility on the A4136 between the site and the existing mini roundabout shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority and once approved shall be fully implemented.
 - The reason given for the condition is: In the interests of highway safety and to accord with Policy CSP.1 of the Core Strategy.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 49 dwellings (minor material amendment) to permission P0086/09/FUL substitution of house types on plots 1, 5, 6, 7, 8, 9, 10, 11, 12 and 49 at Dean Meadows, Gloucester Road, Mitcheldean in accordance with the application Ref.P0366/14/FUL, dated 4 March 2014, without compliance with condition number 14 previously imposed on planning permission Ref.P1280/12/FUL, dated 7 December 2012, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issue

3. This is whether condition no.14 meets the tests for conditions having regard, in particular, to highway safety.

Reasons

4. Paragraph 206 of the Framework¹ sets out a series of tests for conditions. They should be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
5. Furthermore, paragraph 32 of the Framework advises that development decisions should take account of whether safe and suitable access to the site can be achieved for all people. However, development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. CS² Policy CSP.1, referred to by the Council, deals with design and environmental protection. Amongst other things, it requires, in considering development proposals, an analysis of whether existing infrastructure is adequate and additional provision where it is not.
6. The location of the housing scheme is such that residents would walk from it into the centre of Mitcheldean. Some younger residents would, I am sure, seek to walk from the development to the Dene Magna School. The latter walk would require the A4136 to be crossed and it is this sort of pedestrian journey that the Council is most concerned about.
7. The provision of a controlled pedestrian crossing facility in the position that has been agreed between the appellant and the Council through condition 14 would make that very straightforward. However, the central question, having regard to the tests for conditions, is whether the provision of a controlled pedestrian crossing facility is necessary for planning permission to be granted for the development?
8. In my view it is not. I reach that conclusion because pedestrians making the sort of journeys the Council is particularly concerned about could use the dropped kerbs at the mini roundabout on the A4136, not very far south-west of where the Council would like to see the new pedestrian crossing, or the existing controlled pedestrian crossing just a little further south-west of the mini-roundabout, to cross the A4136. Using either of those facilities instead would not make the walk to school very much longer, or inconvenient, so I cannot envisage that any sensible person would be tempted into a risky, or dangerous, crossing of the A4136, to the north-east of the mini-roundabout, in order to shorten the journey.
9. On that basis, I consider that condition 14, as applied, is not necessary in highway safety terms. There would be compliance with the Framework and CS Policy CSP.1, and planning permission could be granted for the development, without it. I note that the Highway Authority takes a similar view.
10. On that basis, I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition, restating those undisputed conditions that are still subsisting and capable of taking effect.

Paul Griffiths

INSPECTOR

¹ The National Planning Policy Framework

² The Forest of Dean District Council Core Strategy Adopted Version of 23 February 2012