
Appeal Decision

Site visit made on 24 January 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/X1355/W/16/3161909

land at 'Caddetou', Ebchester Hill, Ebchester, Durham, DH8 0QE

- 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 Mr Peter Brown against the decision of Durham County Council.
 - The application Ref DM/16/00970/FPA, dated 23 March 2016, was refused by notice dated 30 September 2016.
 - The development proposed is the erection of 1no dwelling plus new access road involving removal of small section of stone wall.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Peter Brown against Durham County Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on highway safety.

Reasons

4. The appeal site comprises what was formerly part of the garden plot associated with a property known as 'Caddetou', situated on Ebchester Hill (B6309). The proposal, for the erection of a new dwelling, also proposes the creation of a new access from the B6309, a short distance to the north of the existing access to 'Caddetou' and Springhouse Lane. There is a 40mph speed limit on the B6309 adjacent to the appeal site.
 5. The proposed access to the new dwelling would be located on the outside of a curve in the B6309 as it climbs steadily to the south heading out of Ebchester. The Council have confirmed that they are satisfied that appropriate visibility splays can be achieved in both directions for vehicles turning out of the site onto the B6309. However, there remains dispute between the parties over visibility for vehicles turning right into the site from the north and, specifically, whether a suitable safe sight stopping distance (SSD) can be achieved for northbound traffic. Forward visibility around the inside of the corner is restricted due to the curvature of the road and a substantial stone wall located immediately adjacent to the carriageway on the inside of the bend.
-

6. In stating that an appropriate SSD can be achieved in these circumstances for northbound traffic the appellant relies upon the guidance set out in the Manual for Streets¹ (MfS) and its later companion guide Manual for Streets 2² (MfS2). The Council instead rely on guidance set out in the Design Manual for Roads and Bridgeworks³ (DMRB).
7. Notwithstanding the Council's reliance on DMRB however, it seems to me that the guidance set out in MfS/MfS2 provides a more appropriate basis for the assessment of the proposal. These clearly state that DMRB should only apply to motorways and trunk roads and that the starting point for any scheme affecting non-trunk roads should be with MfS / MfS2.
8. The B6309 is neither a trunk road nor a motorway. MfS defines a street as a highway that has important public realm functions beyond the movement of traffic. Whilst the volume of traffic stated to be carried by the road is noted, and is not disputed by the appellant, my observations of the B6309 were that it does do more than merely allow traffic to move.
9. Pedestrian movements may be low, but I found there to be a distinct sense of place within this part of Ebchester Hill and the area around 'Caddetou' and the junction with Springhouse Lane. At lower levels, closer to the junction with the A694, Ebchester Hill has heavily wooded areas alongside it, and feels somewhat enclosed as a consequence. However, as the road rises to the south, large properties scattered along both sides of the road become more evident, albeit set behind substantial stone walls, but with pedestrian and vehicular accesses providing direct access to the B6309. A short distance to the south, beyond 'Caddetou', lies a row of residential properties that also take direct frontage access from the B6309.
10. Although MfS is stated to apply to lightly trafficked roads, MfS2 confirms the scope and application of the principles set out in MfS can be applied to other types of roads and speed limits. In respect of SSD, MfS2 qualifies the application of MfS principles to roads where a 40mph limit applies and where the 85th percentile figure does not exceed 60km/h⁴. Where a 40mph speed limit applies, the application of MfS principles is subject to local context.
11. A speed survey for the B6309 commissioned by the appellant confirms the 85th percentile speed as being 35.2mph northbound and 35.1 mph southbound, adjusted to an 85th percentile wet-weather speed of 32.7mph (as required by MfS for existing streets). Although the application of MfS/MfS2 or DMRB is disputed between the main parties, I have no evidence before me to indicate that the Council dispute the findings of the appellant's speed survey. Moreover, as I have found the B6309 to have characteristics of both a street and a road, I consider the locally derived context, in the form of the speed survey findings, to be a persuasive factor in leading me to conclude that MfS/MfS2 provide the appropriate basis for consideration of the appeal proposal.
12. At 31mph, MfS/MfS2 require an SSD of 45 metres (adjusted to include car bonnet length) and at 40mph the equivalent SSD is 59 metres. At 35mph, the Council suggest an SSD of 54 metres would be required using MfS/MfS2

¹ Manual for Streets – Department for Transport, 2007

² Manual for Streets 2 – Chartered Institution of Highways and Transportation (CIHT), 2010

³ Design Manual for Roads and Bridgeworks – joint publication including Highways England

⁴ 60km/h equates to 37.3mph

parameters. Based upon the findings of the speed survey, the appellant suggests that an SSD of 49.7 metres can be achieved, a distance which would be appropriate to the 85th percentile wet-weather speed ascertained by the speed survey. However, although the appellant has submitted drawings⁵ to indicate that SSD distances of 90 metres and 49.7 metres would be possible, I cannot be certain that they adequately demonstrate an appropriate SSD in this instance.

13. In respect of Figure A, the 90 metre distance indicated shows a vehicle having almost completed the turn into the proposed access. However, that scenario would require the right turning vehicle to initiate the turn based upon the much shorter SSD shown in Figure B. Moreover, whilst Figure B indicates an SSD of 49.7 metres, it appears to show that distance as being bonnet to bonnet, thereby failing to take account of bonnet length in visibility measurements. With regard to a vehicle travelling north towards the right turning vehicle, the measured distance is to the nearside front corner of the vehicle, not to the driver's location on the offside of the vehicle. Nor is it clear whether, in calculating the SSD, account has been taken of the downward slope along this stretch of the B6309 for which MfS/MfS2 recommends allowance should be made. These factors would, I conclude, be likely to have a material effect on the distance indicated in Figure B.
14. Derwentside Local Plan (DLP) policy TR2 requires proposals to demonstrate that, amongst other matters, a safe vehicle access and exit can be provided and this reflects the content of the second bullet-point of paragraph 32 of the National Planning Policy Framework (the Framework). Thus, based on the evidence before me, and having regard to the provisions of MfS/MfS2, I cannot be certain that an adequate SSD between northbound vehicles and right turning vehicles can be demonstrated so as to provide a safe vehicle access. The proposal would therefore fail to satisfy the provisions of DLP policy TR2.
15. With respect to the three dimensions of sustainable development set out in the Framework, it is common ground that the proposal would bring, albeit limited, economic and social benefits arising from the development of an additional dwelling. I note too that matters relating to the effect of the proposal upon living conditions of occupiers of adjacent residential properties, the area of high landscape value, ecology, trees, drainage and land stability did not inform the Council's reason for refusal. On the basis of the information before me, I see no reason to disagree and these matters weigh modestly in favour of the proposal for a single dwelling.
16. It is also acknowledged that the Council are unable to demonstrate a deliverable 5 year housing land supply and that the development plan should not be considered up to date. In such circumstances, paragraphs 49 and 14 of the Framework are engaged and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this instance, and on the basis of the evidence before me however, I conclude that the available visibility to right-turning vehicles and the SSD for vehicles travelling northwards would not provide a safe access to the site, contrary to DLP policy TR2, and that this would significantly and demonstrably outweigh the modest benefits that would arise from a proposal of this scale.

⁵ Figures A and B, IPRT 10/01/2017 – Final Comments

Other Matters

17. The site adjoins Prospect House, a grade II listed building, and also adjoins the Ebchester Conservation Area. I am therefore statutorily required to pay special attention to the desirability of preserving the building or its setting, or any features of special architectural or historic interest by virtue of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Paragraph 137 of the Framework also states that proposals that preserve those elements of the setting [of a heritage asset, in this case the Ebchester Conservation Area] that make a positive contribution to or better reveal the significance of the asset should be treated favourably. I note that the Council conclude that the proposal would preserve the settings of both the conservation area and the listed building, and I have not been presented with any evidence to suggest otherwise.

Conclusion

18. For the reasons set out, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR