
Appeal Decision

Site visit made on 5 April 2017

by Stephen Roscoe BEng MSc CEng MICE

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

Decision date: 4th May 2017

Appeal Ref: APP/W1850/W/16/3165503

Land at Yarpole, Leominster, Herefordshire HR6 0BA

- 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 Frank Price against the decision of Herefordshire Council.
 - The application Ref 161522, dated 10 May 2016, was refused by notice dated 7 December 2016.
 - The development proposed is 6 no. dwellings and 4 no. garages.
-

Decision

1. The appeal is allowed and planning permission granted for 6 no. detached dwellings and 4 no. garages in accordance with the terms of the application, Ref 161522, and subject to the conditions listed at the end of this decision.

Application for costs

2. An application for costs was made by Mr Frank Price against Herefordshire Council. The application is the subject of a separate decision.

Reasons

Highway Safety

3. I consider the main issue in this appeal to be the effect of the proposal on highway safety. The proposed access onto the highway would be situated near to a bend to the south east of the access which would limit visibility. The appeal proposal had been the subject of a previous appeal, Ref APP/W1850/W/16/3141786, on which a decision had been issued on 22 March 2016. Whilst this decision had dismissed the appeal, it found that the proposal would not have an unacceptable impact on highway safety and that visibility of 33m was available at the proposed access to the south east along the highway. It was also recorded that, from surveys carried out, the 85th percentile speed of the road was 23.3mph for wet weather conditions.
4. In this appeal, the Council relies in part on a survey undertaken on behalf of the local Parish Council. This has shown the 85th percentile speed to be 24.5mph, said by the Council to be in wet weather. The Council is also of the view that available visibility to the south east would be 28m compared to a need for 41m, which the Council suggests is required by the Manual for Streets 2 (MfS2).

5. The appellant is of the opinion that, at the speeds identified in the Parish Council's survey, visibility of 32.43m is required by MfS2, on the basis that traffic on the road is travelling at less than 60kph, or approximately 37mph. The appellant is also of the opinion that visibility of 39.15m would be available to the south east of the proposed access.
6. In view of the recorded speed of traffic on the road, I can see no reason to doubt the appellant's view that a visibility of 32.43m is required by MfS2. This is also on the basis that the survey has shown there to be a low proportion of heavy goods vehicles (HGVs) using the road and there is therefore no reason to separately assess the impact of HGVs. In coming to this view, I have given more weight to the survey results than impressions gained from site visits. Furthermore, I consider that the horizontal alignment of the road in this area is likely to limit the speed of HGVs to well below the vehicle speeds recorded by the survey.
7. From the representations submitted, the Council appears to have assessed visibility to the kerb line to the opposite side of the carriageway to the proposed access, as has the appellant. Whilst this does not accord with MfS2, I am content that it reflects the visibility circumstances at this location.
8. The appellant has measured the visibility splay to the nearside edge of the vehicle track, or 0.5m from the edge of the carriageway. The effect of this is to increase the assessed visibility distance. As the splay has been taken to the opposite side of the carriageway, which also increases the assessed visibility distance, I do not consider that this vehicle track adjustment is appropriate in this instance. Furthermore, the appellant's assessed visibility splay passes outside of the opposite edge of the carriageway. In view of the vegetation which is present alongside this part the road, I do not agree that the visibility splay could be accommodated outside of the carriageway in this location. To use the edge of the carriageway and to keep the visibility splay within the carriageway would both serve to reduce the appellant's assessed visibility of 39.15m. I do not however consider that it would take the visibility distance below the 32.43m required by MfS2.
9. At the proposed site access, the south east facing visibility splay would pass over areas of vegetation adjacent to the carriageway. The site plan provided with the application shows however that this area is under the control of the appellant, and I therefore consider that this vegetation could be managed in the future to maintain the above visibility splay. In view of all of the above points, I am satisfied that the proposal would provide a safe exit from the site in accordance with Core Strategy¹ (CS) Policy MT1 and the NPPF.
10. At my site visit, I observed a pedestrian walking a dog along the road at the location of the bend. This was undertaken with some difficulty, as there are no footways. Traffic generated by the proposal would however represent a very small proportion of the traffic on the road, and I am of the opinion that the proposal would not make any material difference to pedestrian conditions along the road.
11. I therefore conclude that the proposal would not have an unacceptable adverse effect on highway safety and that it would thus accord with CS Policy MT1 and the NPPF.

¹ Herefordshire Local Plan Core Strategy 2011 – 2031: October 2015: Herefordshire Council

Other Matters

12. A layout plan for the proposed development shows a development of 7 dwellings. The 6 dwellings on this plan which lie within the appeal site are clearly numbered on the plan, and I am satisfied that they represent the dwellings that comprised the planning application and are the subject of this appeal.
13. Whilst the planning application suggests that the appeal site is in an area at risk of flooding, the Council has not raised any objection to the proposal in this regard apart from a condition requiring a Flood Evacuation Management Plan. There is however a history of flooding along the road adjacent to the site. The evidence submitted indicates that this, in part, is due to a roadside stream being constrained by culverts and small bridges over which property accesses run. The location of the proposed site access is currently the location of such a culvert, over which a field access passes. This culvert would be reconstructed as part of the access to the proposal, and this would give the opportunity to improve the constraint to the roadside stream which the culvert currently appears to impose. A sewerage pumping station is also located adjacent to the appeal site, and this has been subject to flooding incidents in the past. There has however been no statutory objection to the proposal in the context of sewer capacity or the pumping station, and I am thus satisfied that the proposal would not have a harmful effect on its operation.
14. I understand that the appeal site lies outside of the settlement for Yarpole identified in the Yarpole Neighbourhood Development Plan. The plan is however at an early stage in its preparation. I therefore give it limited weight in my decision, and this is a position with which the Council agrees. There has been no statutory objection to the proposal in terms of ecology, and I do not consider that this matter adds any weight towards dismissing the appeal.
15. There is some inter-visibility between the appeal site and Pound House, which I understand is a Grade II listed building. From Pound House, it would be likely that a single house of the proposed development would be visible together with the rooftops of others. Furthermore, these houses would be located in the bottom of the valley over which Pound House is situated. This would not be an unusual characteristic in views from and to Pound House, as the appeal site adjoins the settlement of Yarpole. As a result of the visual and physical separation, both horizontally and in terms of levels, between the proposal and Pound House, I consider that the proposal would not have a harmful effect on, and indeed would preserve, the setting of the Grade II listed building. This is a matter to which I attach considerable importance and weight.
16. A footpath currently crosses the appeal site, and the application shows this to be diverted along access roads within the site. Whilst this would represent a change to users of the footpath, I do not consider that this change would be unacceptable.

Conditions

17. Conditions would be required in respect of a visibility splay to the south east of the proposed access, vehicular access and car parking in the interests of highway safety. The area of the visibility splay regulated by the condition should relate to the frontage of the appeal site which abuts the highway, accepting that visibility would then extend across the carriageway. Visibility to

the north west of the proposed access would pass over a grassed area between the roadside stream and the carriageway. This area of visibility to the north west is situated outside of the appeal site, and the retention of this visibility could not be regulated by means of a condition. No reasoned concerns have however been expressed in respect of visibility to the north west, and the absence of such a condition would not add weight in favour of dismissing the appeal.

18. Conditions in relation to construction working hours and surface and foul water drainage would be necessary to protect the living conditions of nearby occupiers. Conditions to address external materials, emergency flood evacuation and water use would be required in the interests of the character and appearance of the surrounding area, flood risk and sustainable development respectively. It would however be necessary to amend the conditions suggested by the Council in the interests of precision and enforceability. It would also be necessary that the development should be undertaken in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition would therefore be required to define the approved plans.

Conclusion

19. Having taken into account all other matters raised, none carry sufficient weight to alter the decision, and my conclusion is based on the evidence before me in terms of the development plan as a whole. I therefore conclude that the appeal should be allowed.

Stephen Roscoe

INSPECTOR

CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed below.
 - Land at Yarpole Drg No 1432/1A
 - Land at Yarpole Drg No 1432/1B
 - Location Plan Drg No 1432/2
 - Plot 1 Drg No 1432/3
 - Plot 2 Drg No 1432/4
 - Plot 3 Drg No 1432/5
 - Plot 4 Drg No 1432/6
 - Plot 5 Drg No 1432/7
 - Plot 5 Drg No 1432/8
 - Plot 6 Drg No 1432/9
 - Double Garage Drg No 1432/10
 - Single Garage Drg No 1432/11
 - Access Road Drg No 1432/SW/1
- 3) No development within any part of the buildings shown on the approved drawings shall take place until details of all external facing materials have been submitted to, and approved in writing by, the local planning authority. The relevant works shall be carried out in accordance with the approved details.
- 4) Before any other works hereby permitted are commenced, a visibility splay shall be provided from a point 0.6m above ground level at the centre of the proposed access to the development and 2.4m back from the nearside edge of the adjoining carriageway (measured perpendicularly) for a distance of 9m to the south east along the nearside edge of the adjoining carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
- 5) Before any other works hereby permitted are commenced, the construction of the vehicular access, including the crossing of the roadside stream, shall be carried out in accordance with details which have been submitted to, and approved in writing by, the local planning authority. The vehicular access shall not have a gradient steeper than 1 in 12.
- 6) Any dwelling hereby permitted shall not be occupied until the area for car parking for that dwelling, shown on Drawing No 1432/1A, has been consolidated, drained and surfaced in accordance with details that shall first have been submitted to, and approved in writing by, the local

planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles.

- 7) No development shall commence until a drainage scheme for the site has been submitted to, and approved in writing by, the local planning authority. The scheme shall provide for the disposal of foul, surface and land water, and include an assessment of the potential to dispose of surface and land water by sustainable means. The approved scheme shall be implemented prior to the occupation of the development and no further foul water, surface water and land drainage shall be allowed to connect directly or indirectly with the public sewerage system.
- 8) Prior to occupation of the development hereby permitted, a Flood Evacuation Management Plan shall be submitted to, and approved in writing by, the local planning authority. The plan shall include full details of proposed awareness training and a procedure for evacuation of persons and property (including vehicles), training of staff, and a method and procedures for times of evacuation. It shall also include a commitment to retain and update the plan and include a timescale for revision of the plan.
- 9) Construction works, including deliveries taken at or despatched from the site, shall take place only between 07.00 and 18.00 on Mondays to Fridays and 08.00 and 13.00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 10) Prior to occupation of the development hereby permitted, a scheme demonstrating measures for the efficient use of water as per the optional technical standards contained within Core Strategy Policy SD3 shall be submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.
