

Appeal Decision

Site visit made on 13 June 2017

by K Taylor BSc (Hons) PGDip MRTPI

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

Decision date: 30th June 2017

Appeal Ref: APP/Y1110/W/17/3169160

35 Sylvan Road, Exeter EX4 6EU

- 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 & Mrs Michael & Trudy Porter against the decision of Exeter City Council.
 - The application Ref 16/1379/03, dated 2 November 2016, was refused by notice dated 18 January 2017.
 - The development proposed is described as "new build single private dwelling to be built within the garden of 35 Sylvan Road, Exeter".
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Decision

1. The appeal is dismissed.

Procedural matters

2. A number of local residents commissioned a report from a transport consultant. Subsequently the appellant and the Council have been provided with an opportunity to comment on this report. I have had regard to the report, the subsequent comments, and the initial consultation response from Devon County Council.

Main Issue

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

Reasons

Highway safety

4. The appeal site is located to the rear of 35 Sylvan Road and is used as garden land. It is surrounded on all sides by housing development in Sylvan Road, Union Road, and Lower King's Avenue. There is an access way located between 31 and 33 Sylvan Road, this provides both pedestrian and vehicular access to the rear of a number of properties. Currently 4 garages have access from this lane. It appears that the lane is an adopted highway.
 5. The lane is single width and from Sylvan Road to the point where it meets the appeal site it is flanked by the gable wall of No.31 and boundaries for this property and No.33. It is very narrow. Although there is sufficient space to allow access for domestic and small commercial vehicles it is nevertheless a tight access way, for example, there is not room to safely accommodate both a vehicle and a pedestrian.
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6. The access meets the road at an angle, this has created an awkward geometry at the junction and is such that turning into the access from the north would be difficult and likely to require manoeuvring in the road. Exiting left at the access requires vehicles to encroach on to the opposite side of the road, potentially into oncoming traffic. At my site visit I observed parked cars near the access on the opposite side of the road. Their presence would further hinder exiting left such that additional manoeuvring on the road is likely to be required.
7. The County Council consider that the 30 mph limit is adhered to and the transport consultant observed speeds to be around 25-28 mph. This aligns with my observations on site. There is differing evidence as to the extent of the visibility at the access. The County Council state that visibility to the left meets the relevant standard for a 30 mph speed limit, but visibility to the right is below the standard, meeting only that required for 25 mph. The transport consultant's report suggests the visibility is considerably less than this at 17.5 and 18m to a point 1m off the carriageway edge. The appellant, the City Council, and the County Council have not provided any substantive additional technical evidence to demonstrate the degree of visibility.
8. From my observations on site it appears that the visibility in both directions fell a good way short of that suggested in Manual for Streets for speeds of 25mph. Boundary treatments to the front No.31 and No.33 significantly limit visibility of pedestrians using the pavement. This would especially be the case for small children that would not be visible above the walls.
9. The lane currently provides access for 4 garages, even if some of these are used for parking vehicles, the use of the lane for vehicle access associated with the garages or for other purposes, such as property maintenance, is likely to be low and sporadic. The appeal development would result in a single dwelling being accessed from the lane. However, unlike the existing properties on Sylvan Road, the only means of accessing the front of the property would be via the lane. Therefore, proportionately, the appeal dwelling would result in a significant increase in the use of the access.
10. The level of visibility is limited; this would only be aided to a degree if a driver were to edge out of the access and lean forward but conflict is still likely to arise. Such careful exiting would do little to improve visibility of pedestrians on the pavement. Taking the substandard vehicular and pedestrian visibility together with the awkward geometry at the access and restricted width of the lane, the increased use of the access would be detrimental to highways safety. Although there is a lack of reported accidents, this may well be attributed to the current infrequent use of the access. It does not persuade me that the increased use is acceptable.
11. I note the appellants suggest that the pavements are rarely used and that alternative routes provide more direct access to schools and other facilities. Even if that is the case, the pavement will be regularly used including by small children and as such hazards, due to inadequate pedestrian visibility, remain likely to arise. As the appellants are not in control of the land either side of the access point, improvements could not be secured by a condition. I have no evidence that a mirror, opposite the access, could be provided and I am not satisfied that this would remain visible and functional at all times, given the propensity for vehicles to be parked on the street.

12. The lane is straight and visibility up and down it, towards and from the appeal site, is clear. This is likely to limit conflict of vehicles meeting each other or a pedestrian in the lane, as those in vehicles leaving the site are only likely to do so if the lane is clear. However this would not eliminate conflict as vehicles entering the lane would be committed to the turn before the driver would see approaching exiting vehicles or pedestrians. This would require the vehicle entering the lane to reverse back into the road and wait or those exiting the site to reverse back along the narrow lane. Although such instances are likely to be limited, they will nevertheless cause inconvenience and increased hazards.
13. The scheme incorporates a turning head so that vehicles can enter and exit the site in forward gear. The access point into the site itself is wide. This would allow for good visibility, for it to be used as a passing place, it would alleviate the tight nature of the bend, and it could allow for other users of the lane to also turn vehicles and so also both enter and exit in forward gear. This would result in an improved situation for existing users of the lane. However it appears that such use is modest and this benefit does not outweigh the harm that would arise with the increased use of the access brought about by the appeal scheme. The access to the site itself is adequate; however the effect of the increased use of the access point onto Sylvan Road is an important material consideration.
14. It seems likely that regular users of the access will not habitually seek to enter from the north or exit left, thereby reducing the number of these manoeuvres. However some use of the access in this way will still occur and I have no evidence that the County Council is likely to place signage to seek to prevent this. In any event, this does not alleviate the concerns in respect of the visibility and the narrow nature of the lane.
15. The development could incorporate a sprinkler system alleviating problems of the restricted access for emergency vehicles and it is possible that delivery drivers may well choose to park in the street rather than use the access. These factors do not however outweigh the harm that would arise from the generally increased use of the access.
16. There are other examples of accesses in the local area that are substandard in terms of visibility and to a large extent drivers behaviour will be adjusted to account for this. However few of the local examples share all the substandard attributes of the access from the lane. Many serve only a single dwelling and most have straightforward geometry. Even where there are examples of substandard access points, which are more directly comparable to the appeal site, this is not a good basis for allowing further harmful development.
17. I note the appellants have concerns that the highway report prepared on behalf of the neighbours is likely to be biased. However I have no reason to believe the author would do anything other than provide his professional opinion. The County Council, as highway authority did not object to the scheme. However it is clear from the response that, the Council's officer considered that it was less than ideal. I have taken account of the lack of objection from the County Council and that the planning officer recommended approval of the scheme. However I must reach my own view on these matters.
18. For the above reasons I conclude that the proposed development would be detrimental to highways safety. It is therefore contrary to Policy DG1(a) of the

Exeter Local Plan First Review which requires that development should connect efficiently with existing routes, putting people before traffic. This is consistent with the aims of the National Planning Policy Framework to ensure that safe and suitable access can be achieved for all people whilst not resulting in severe residual cumulative impacts.

Other matters

19. The appellant undertook pre-application discussions, has sought to address a number of matters raised while the application was being considered, and revised the scheme to account for this. This does not however address or outweigh the remaining highway safety concerns.
20. I have no substantive evidence as to whether the planning committee were misinformed about the highway officer having conducted a site visit and, if so, what influence that had on the decision. I also note the concerns in respect of the conduct of the committee site visit and the query as to whether there is evidence that all listed neighbours endorse the 'report of interested people'. Many of those raising concerns about the development do not live particularly close to the access point and may well more regularly use the roads that do not pass by it. It also appears that some are landlords and do not live in the nearby houses themselves. Such matters add little to the consideration of the main issue in this appeal which I have considered on its substantive planning merits.

Conclusion

21. The adverse effects of the development are sufficient to mean that the proposal would conflict with the development plan when taken as a whole. For the reasons given above I conclude that the appeal should be dismissed.

K Taylor

INSPECTOR