
Appeal Decision

Site visit made on 31 July 2017

by Rachel Walmsley BSc MSc MA MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/J1860/W/17/3172076

1 The Three Nuns, Colletts Green Road, Powick WR2 4SB

- 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 New River Retail Trustee No.7 and New River Retail Trustee No.8. against the decision of Malvern Hills District Council.
 - The application Ref 16/01059/FUL, dated 12 July 2016, was refused by notice dated 16 December 2016.
 - The development proposed is demolition of outbuilding and erection of convenience store (A1) incorporating ATM with associated parking, landscaping, access arrangements and plant on land at the Three Nuns Public House.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by New River Retail Trustee No.7 and New River Retail Trustee No.8 Malvern Hills District Council. This application is the subject of a separate Decision.

Main Issues

3. These are
 - (i) whether the visibility splay to the north of the access proposed would provide a safe and suitable access;
 - (ii) whether the proposal would provide a safe means of access for pedestrians; and,
 - (iii) whether the proposal would result in a competition for parking.

Reasons

Visibility splay to the north

4. It is common ground that the visibility splay to the north of the access proposed would be substandard, failing to meet the distances set out in Manual for Streets¹. Consequently, drivers exiting the site would need to 'nudge out' into the road to see if there is any oncoming traffic. A vehicle in the road would be an obstruction to southbound traffic which would increase the risk of

¹ Department for Transport, Manual for Streets (2007)

collision. This harm to highway safety would be exacerbated by the bend in the road which would limit the time a driver in southbound traffic would have to react to a vehicle that is exiting the site. Furthermore, the increased vehicle movements expected on and off the site as a result of the development would exacerbate the risk found to highway safety.

5. Whilst delivery space has been provided within the site for the convenience store, it is not clear how deliveries to the public house would be made. Vehicles delivering heavy barrels would need to park as close as possible to the public house and therefore most likely within the access to the site. Irrespective of whether the deliveries would be outside the busy periods of the convenience store or not, a delivery vehicle for the public house would obstruct drivers' visibility when exiting the site. The limited number of deliveries to the public house reduces the degree of harm found, but does not overcome it.
6. Manual for Streets 2² recognises that reduced visibility does not necessarily result in the increased risk of collision; it cites the example of drivers nosing out into the road, past parked vehicles, until they can see oncoming traffic. However, the concern for the development proposed does not relate to parked cars but to the degree to which a vehicle would need to protrude into the road in light of the bend in the road, together with the increased vehicle movements which would exacerbate this harm.
7. The Highways Authority considered the visibility splay acceptable because it considered the Stopping Sight Distance (SSD) to be sufficient and the betterment of the access proposals to be of benefit. There is no explanation within the evidence before me as to why the Highways Authority considered the SSD to be acceptable. The SSD would be substantially less than the recommended standard and as a result would have a material effect on highway safety.
8. The development would make some improvements on the existing access, although the extent of this benefit depends on points of measurement. Notwithstanding this, few accidents have been reported in relation to the existing access and therefore the degree to which the development would overcome an existing problem is limited, reducing the weight that I can attribute to this benefit in favour of the appeal.
9. Policy SWDP21 of the Development Plan³ requires vehicular traffic from development to access the highway safely, in the same way as paragraph 32 of the National Planning Policy Framework (the Framework) requires a safe and suitable access to the site. Policy SWDP4 of the Development Plan requires development proposals to address road safety, having regard to the design criteria and principles set out in Manual for Streets. I have found that the visibility splay to the north of the access proposed would not provide a safe and suitable access and therefore the development would conflict with the policies stated.

Pedestrian access

10. It is anticipated that over half of customers will visit the site on foot; indeed a significant proportion of local residents live within a reasonable walking distance of the appeal site. The predominance of built development to the east

² The Chartered Institution of Highways and Transportation, Manual for Streets 2 (September 2010)

³ South Worcestershire Development Plan (Adopted February 2016)

of the site suggests that many residents would access the site from this direction. The existing footpath on Collett's Green Road and the pedestrian crossing proposed would enable some residents to access the public house and convenience store safely. However, there would be an absence of footpaths for customers coming from other directions, including those using Sparrowhall Lane or Bowling Green Road where it is expected that customers would walk from the bus stops further south. The absence of footpaths and street lighting would result in pedestrians walking in the road which would cause a conflict between vehicles and pedestrians. Whilst the local roads are reported to be lightly trafficked, the development would intensify the vehicular movements on and off the site, exacerbating the conflict identified.

11. I recognise that there are limited provisions around the site for pedestrians at present and despite this, no pedestrian accidents have been recorded for a substantial period of time. Nevertheless, increased pedestrian and vehicular movements and limited visibility create a situation that is different to that at present and one which I have found would cause harm.
12. Paragraph 32 of the Framework, together with policy SWDP4 of the Development Plan requires that a safe and suitable access to the site can be achieved for all people. I have found that a safe means of access for pedestrians would not be provided and therefore the development would be contrary to policy.

Competition for parking

13. The parking standards in the Highways Design Guide⁴ require a maximum of 11 spaces for the retail use proposed and a maximum 30 spaces for the public house. The development would provide 27 parking spaces, based on 14 for the retail use and 13 for the public house. The policy guidance within the Highways Design Guide clarifies that parking for disabled people should be in addition to the maximum parking standards. Based on the three disabled parking spaces proposed, the maximum spaces required by policy for retail use would be met.
14. Whilst the spaces proposed for the public house are noticeably less than the policy standard, the spaces are commensurate with the existing use. It has not been suggested that current levels of parking for the public house have resulted in highway safety or traffic management problems and there is nothing within the evidence before me to indicate that the public house would require more parking than at present. On this basis parking below the maximum standard for the public house would be acceptable.
15. It is also necessary to consider the dual use of the site and the likelihood that spaces may be shared between uses; indeed the appellant acknowledges that should demand for the public house exceed available spaces, drivers could occupy other spaces within the site. Given the differences between uses and their activities it is reasonable to expect the busiest times of the public house and the convenience store to be different. Together with the short time that customers are likely to spend in the convenience store and therefore leave their vehicle parked, there would be capacity amongst the car parking spaces proposed for shared parking between uses. This, in turn, would avoid the need for drivers to park off site.

⁴ Worcestershire County Council, Highways Design Guide (January 2010)

16. In all, therefore, I find that the parking spaces proposed would not result in a competition for parking which in turn presents no concerns for highway safety. As such the development would not be contrary to policy SWDP4 of the Development Plan which requires development to have regard to Worcestershire County Council's Highways Design Guide.

Other matters

17. I recognise that the planning application was originally recommended for approval but that this was overturned by Members. Whilst I appreciate that the outcome of the application will have been a disappointment to the appellant, the recommendation to committee is just that, with Members able to decide the application based on the Officer's recommendation and all other material factors. Reaching a decision that is different to the Officer's recommendation does not indicate that members failed to have regard to the full extent of the scheme.
18. I recognise that the Highways Authority raised no objection to the development proposed and I have considered their comments in reaching my decision. However, for the reasons given, I have found that the development would be harmful to highway safety.

Conclusion

19. I recognise that the development would have a number of benefits, not least inward investment, increased employment and benefits to the local environment. However I have found that the proposal would not provide a safe and suitable means of access for vehicles or pedestrians. The benefits identified would not be sufficient to outweigh this harm and for this reason, the proposed development would be contrary to the development plan. As a result the appeal is dismissed.

R Walmsley

INSPECTOR