
Appeal Decision

Site visit made on 20 August 2019

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th September 2019

Appeal Ref: APP/M1005/W/19/3231688

Land adjacent 91 Main Road, Smalley, Ilkeston, Derbyshire DE7 6DS

- 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 J Stanton against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2018/1084, dated 01 November 2018, was refused by notice dated 29 April 2019.
 - The development proposed is construction of a detached dwelling along with the associated access and garden areas.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue raised by this appeal is the effect of the proposed development on highway safety with particular regard to access visibility.

Reasons

3. The appeal site is situated within the curtilage of no. 91 Main Road, a large L-shaped residential dwelling which has been converted from a set of older buildings. A large garden is located along the northeastern portion of the site the boundary of which comprises a combination of hedge and conifer trees with an approximate height of 2 metres. An existing vehicular access onto the A608/Main Road is in place on the western boundary immediately adjacent to no. 91 and its associated L-shaped configuration.
4. The proposed development relates to the construction of a new detached dwelling within the existing garden to the north of the site with new driveway and vehicular turning area being provided to the southwest of this. It is proposed that the existing vehicular access serving no. 91 would also provide access to the proposed new dwelling.
5. I saw during my site visit that the vehicular access to no. 91 Main Road currently has poor visibility due to the orientation of the highway and the buildings that are in close proximity to it, something which all parties agree with. The Local Highway Authority (LHA) have objected to the proposal due to the increased vehicular activity that the proposal would cause at an already substandard junction with the main road.

6. I note that the appellant has discussed the proposal at length with the LHA with the aim of reaching a solution that would overcome their objections. However, whilst this shows constructive and positive intent from the appellant it has ultimately been unsuccessful with the LHA maintaining its objection to the proposal on highway safety grounds.
7. I also note that the appellant has provided additional information and evidence to support the proposed development in order to demonstrate that the visibility from the existing access would be improved thereby enabling it to safely accommodate the entry and exit of the additional traffic. The improved visibility splays for the proposed access would be approximately 2m x 45m taken to the centreline of the adjacent carriageway and this would be in broad alignment with paragraph 10.5.5 of the Manual For Streets 2 (MfS2).
8. However, both the LPA and LHA maintain that even though the visibility from the proposed access would be somewhat improved, it would not be sufficient to overcome the harm to highway safety that would be caused by the likelihood of northbound traffic on the A608/Main Road overtaking a slow-moving vehicle. It would also not overcome the risk of southbound traffic not having enough time to avoid vehicles exiting the proposed access (as exiting vehicles would need to edge out onto the main road before completing their manoeuvre).
9. The appellant states that a speed survey was undertaken on 19 September 2018 and that no overtaking was observed. Whilst I acknowledge that this may well be the case it does not rule out the potential for any future unsafe and illegal overtaking manoeuvres by northbound vehicles. At the time of my visit (10:40) there was a regular flow of traffic along the A608 Main Road in both directions and it is likely that it would be a great deal busier during peak times.
10. Consequently, there would be a high probability that dangerous overtaking manoeuvres could occur on the stretch of the A608/Main Road in a northbound direction given that the double white lines end approximately 40 metres from the proposed vehicular access. Furthermore, given the 40 mph speed limit on the A608 the stopping sight distance required for the average car travelling at 37 mph would be approximately 59 metres¹. This would be insufficient for vehicles to avoid any potential collisions that would arise as a result of the proposed development.
11. The LHA recommended that the application be refused. Based on the evidence before me and from what I saw on my site visit, I too have concerns regarding the amount of additional traffic using the proposed access and the associated implications for the safety of highway users.
12. Whilst the appellant considers that the access would be sufficiently improved, I am nevertheless not persuaded that this would be the case. As a result, highway safety would be unacceptably harmed as a result of the increase in traffic that would be associated with the proposed development. I also consider that this harm would be compounded by the speed and frequency of traffic already traversing the A608 in both directions and the curvature of the road itself. When combined these factors would make it difficult for a vehicle travelling in a southerly direction to see let alone avoid a vehicle emerging

¹ Including the 2.4m to allow for the distance between the driver and the front of the vehicle (MfS1 Table 7.1)

from the proposed access (or one overtaking a slow-moving northbound vehicle) in time to avert a potential collision.

13. I disagree with the appellant's assertion that 'moving from a potentially dangerous access to a slightly substandard access is considerable betterment'. On the contrary, a substandard access that does not meet the specifications of the Highway Authority in this location would harm the safety of road users and pedestrians.
14. I therefore conclude that the proposed development would result in harm to the safety of highway users. Consequently, it would conflict with saved Policy TP1 of the Amber Valley Borough Local Plan (adopted 2006) and paragraph 109 of the National Planning Policy Framework which both aim to ensure that new developments do not harm highway safety.

Conclusion

15. For the reasons set out above I conclude that this appeal should be dismissed.

C Coyne

INSPECTOR