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## Appeal Decision

Site visit made on 3 December 2019 by Scott Britnell MSc FdA

**Decision by K Taylor BSc (Hons) PGDip MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 January 2020**

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**Appeal Ref: APP/C1625/W/19/3235067**

**Treetops, Taits Hill Road, Stinchcombe, Dursley, GL11 6PR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr S Williams against the decision of Stroud District Council.
  - The application Ref S.18/2671/OUT, dated 11 December 2018, was refused by notice dated 19 February 2019.
  - The development proposed is described as 'Outline application with all matters reserved except for access for two dwellings'.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The appeal relates to an application for outline planning permission wherein all matters have been reserved except for access. A plan showing a site layout has been provided and I have treated this as being illustrative.
4. The appellant has submitted a written statement on highways/transport issues (WS). I have considered the WS under the principles established by the Courts in *Wheatcroft*<sup>1</sup>. The Local Highways Authority (LHA) has commented on the WS within their statement, as has a third party. As such, I am satisfied that by considering the WS, I would not deprive those who should have been consulted upon it the opportunity to comment. I have therefore taken account of the information within the WS in considering the appeal.

### Main Issues

5. The main issues in this matter are:
  - the effect of the proposal on the character and appearance of the area; and
  - the effect of the proposal on highway safety.

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<sup>1</sup> *Bernard Wheatcroft Ltd v SSE* [JPL 1982, P37]

## **Reasons for the Recommendation**

6. The appeal site comprises a detached dwellinghouse on the south side of Taits Hill Road, within the Cotswold Area of Outstanding Natural Beauty. The property benefits from a large rear garden and a detached garage to the side. The proposal seeks outline planning permission for the erection of two dwellings with a new access from Taits Hill Road.

### *Character and appearance*

7. The appeal property is situated within the defined settlement boundary of Cam and Dursley. In terms of character and appearance, Taits Hill Road provides a visual transition to the surrounding countryside. This is particularly characteristic for properties on the south side of the road, where dwellings are generally set towards the front of their plots and benefit from large rear gardens with open countryside and agricultural land beyond.
8. While there is a change in ground levels between the rear garden of the appeal property and the countryside beyond, the rear garden currently has an open and spacious character that contributes positively to the visual transition between the settlement and surrounding countryside. Due to its siting, the proposal would erode this sense of transition and visually intrude upon the countryside, causing harm to the character and appearance of the area. Although the proposal may not be highly visible from the public realm to the front of the site, it would be clearly evident from the gardens of adjacent and nearby properties.
9. Although the precise location of the proposed dwellings is a reserved matter, within this context, the proposal would fail to reflect the existing pattern of development. It would therefore appear as an incongruous form of development that would be inconsistent with the locality thus causing harm to the character and appearance of the area.
10. The appellant refers to development both within the rear gardens of adjoining properties and Dursley and Cam. No details, however, have been provided of these developments and so I am unable to determine whether they are directly comparable to the proposal before me. I did observe that the neighbouring properties benefitted from long gardens free from structures other than ancillary buildings. Accordingly, this carries little weight in my consideration of the proposal, which has, in any event, been considered on its own merits.
11. The appellant also suggests that the proposed dwellings would be of high quality design and would benefit from substantial gardens and landscaping. Further, any concerns that may arise with regards to overlooking and existing residential amenity can be overcome at design stage. These are issues that would be considered at reserved matters stage, and they would not minimise the harmful effect of the development which would primarily derive from the siting to the rear of the existing dwelling. Therefore, I do not consider that these matters are determinative to this appeal.
12. I conclude that the proposal would fail to reflect the existing pattern of development in the area and would unacceptably erode the sense of transition between the settlement and open countryside, upon which it would visually intrude. There would be conflict with Policies CP14(5) and (9) and HC1(1) and (3) of the Stroud District Local Plan (November 2015) (SLP). These Policies

seek, among other things, to ensure that development achieves an appropriate design and appearance, which is respectful of the surroundings, including the local topography and built environment, and which contributes to a sense of place both in the buildings and spaces themselves and in the way in which they integrate with their surroundings. With regards to small scale housing within defined settlements, development must be of a scale, density, and layout that is compatible with the character, appearance and the amenity of the part of the settlement in which it would be located. In respect of on the edge of settlement sites, proposals should not appear as an intrusion into the countryside and should retain a sense of transition between the open countryside and the existing settlement's core.

### *Highway Safety*

13. Taits Hill Road is a Class B highway subject to a 30mph speed limit. The appeal property sits beyond the brow of the hill on a bend and is set down slightly from the road. The proposed access would sit to the west of the existing access which it would replace. I observed that visibility to the east of the site, in particular, is limited, due to the incline of the front garden and the curvature of the road.
14. The WS provides revised and additional details. These indicate that the width of the proposed driveway would be 5m with visibility splays of 2m x 43m in both directions<sup>2</sup>, achieved by the realignment of the kerb line by 0.2m. Guidance contained within Manual for Streets (MfS) indicates that an X distance of 2.4m should normally be used in most built-up situations, while a minimum figure of 2m, as proposed here, may be used in some very lightly-trafficked and slow-speed situations. In this case, the appellant's traffic survey indicates that Taits Hill Road is not lightly trafficked and that speeds generally exceed 30mph, so is not a low speed area.
15. There is also dispute between the parties as to the speed that should be used for design purposes. The appellant argues that it is the legal speed limit that should be used, as opposed that captured by their own survey. I have been referred to an appeal decision<sup>3</sup>, wherein the Inspector stated that, *'I accept that vehicles travelling at higher speeds will require longer stopping distances. However, the A4281 in the vicinity of the appeal site has good forward visibility in both directions so that drivers can respond in good time to queuing traffic. Moreover, given that the speed limit is 40mph it is up to the Police to enforce this.'* In response, the Council have referred me to a separate section of the appeal in which the Inspector states, *'I accept that given the vehicle speed data the proposed visibility splays would need to be increased. Nevertheless, given that there is sufficient landownership to facilitate this increase it can be dealt with by a suitably worded planning condition. I also note the Council's requirement for a Road Safety Audit (RSA) to be carried out prior to planning approval. However, the Highway Authority can require a RSA under s278 of the Highways Act 1980 before works in the highway commence.'* In this case, there is clear evidence that traffic regularly exceeds the legal speed limit in vicinity of the site, and it does not seem reasonable for me to disregard this. Further, visibility to the east is limited due to the curvature of the road. Consequently, I consider that an X distance of 2.4 metres should be provided.

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<sup>2</sup> Drawing 25145/200 Revision O

<sup>3</sup> APP/X6910/A/18/3218033

16. I note that condition 5 of the Council's suggested conditions requires visibility splays of 2m x 43m, while the LHA suggest splays of 2.4m x 65m and 2.4m x 66 metres, which accounts for the 85<sup>th</sup> percentile, as confirmed through the traffic survey. In light of the above, I concur with the LHA that the splays they suggest are necessary. However, the appellant confirms that these cannot be achieved on land in their ownership and there is no evidence that an agreement has been reached with other landowners to facilitate such a splay on their land. Thus, adequate visibility splays cannot be obtained and the proposed access would be detrimental to highway safety.
17. Further, the submitted drawings do not demonstrate that two vehicles could simultaneously access and egress the site and allow for suitable access by other users such as pedestrians and cyclists. Given the location of the site and the limited visibility, particularly to the east, reversing on to the highway would increase the possibility for conflict with other road users.
18. I have considered that the proposed access would represent an improvement over the existing arrangement, in terms of visibility. However, it would still fail to provide an adequately safe access and it is likely to be used more intensively than the existing access, as it would serve a further two dwellings. I consider that the comings and goings relating to three dwellings would have a marked difference over the existing situation. This increase in intensity would exacerbate any current shortcomings relating to the existing access. The improvements to the visibility splays would not outweigh the effects of the increased use of the new access. Therefore, I do not consider that this overcomes the harm I have identified.
19. Further, the proposal still fails to demonstrate that two vehicles can simultaneously access and egress the site. I concur with the Council that such a requirement can be demonstrated through a swept path analysis, but no such detail has been provided.
20. The LHA indicate that they are satisfied that the proposed route to the dwellings would provide suitable accommodation to all users. I agree, and this could be secured through an appropriately worded condition. However, this does not overcome the harm I have identified above in respect of the viability splays and any conflict between users where the access meets the highway.
21. I conclude that the proposal fails to demonstrate that a safe access can be provided to the detriment of highway safety. There would be conflict with Policies CP8 and ES3 of the SLP and Paragraphs 108(b), 110(b) and 110(c) of the National Planning Policy Framework. Collectively these seek, among other things, to ensure that development has a layout and access, that are appropriate to the site and its surroundings, does not result in a detrimental impact on highway safety, ensures safe and suitable access to the site can be achieved for all users, addresses the needs of people with disabilities and reduced mobility in relation to all modes of transport and creates places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

## **Conclusion and Recommendations**

22. For the reasons given above, I recommend that the appeal should be dismissed.

*Scott Britnell*

APPEAL PLANNING OFFICER

**Inspector's Decision**

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*K Taylor*

INSPECTOR