



Appeal Decision

Site visit made on 24 February 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 March 2020

Appeal Ref: APP/W1145/W/19/3239892

Land opposite Caradon View, Halwill EX21 5UF

- 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 G Baker against the decision of Torridge District Council.
 - The application Ref 1/0593/2019/FUL, dated 12 June 2019, was refused by notice dated 18 October 2019.
 - The development proposed is erection of agricultural machinery and hay store and hard standing.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr G Baker against Torridge District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. As part of the appeal, a revised plan was submitted showing an alternative point of access to the appeal site. Where amendments are proposed, regard should be had to the 'Wheatcroft'¹ principles - including whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. As the plan has been seen and considered by the Council and Highways Officer, despite that it is not referenced on the decision notice, and the nature of concerns of those who would otherwise have been consulted are clear from consultation on the original set of plans, I do not consider that their interests would be prejudiced if I take the amended plan into account. I shall therefore determine the appeal on the basis of the plans referred to on the decision notice, as well as the amended plan submitted as part of the appeal.

Main Issue

4. The main issue is the effect of the proposal on highway safety.

Reasons

5. The appeal site is part of an agricultural field located in the rural area of Halwill and comprises an area of hardstanding enclosed by post-and-wire stockproof fencing. There is a double gated access to the site and the adjoining field, inset

¹ Wheatcroft Ltd V SSE [1982]

by approximately 6 metres from the A3079 highway. The A3079 is subject to the national speed limit (NSL) of 60mph in the vicinity of the appeal site. The area is predominantly rural, although there are some houses and farms scattered in the wider surroundings which also take access from the A3079.

6. There is dispute between the parties about whether the existing access and hardstanding form part of the appeal proposal. The appellant claims that they were formed, utilising a previous substandard point of access, more than four years ago and are therefore lawful by virtue of the passage of time. In my view, given that the proposal involves the siting of a building upon an otherwise undeveloped parcel of agricultural land, there is a potential for the vehicular movements associated therewith to change or increase, even if no material change of use occurs as a direct result of the proposal. I also note that the appellant may have had permitted development rights that enable temporary uses of land but that these would not be removed even if the appeal were allowed. Furthermore, the proposal before me now also includes amendments to the access as detailed in plan Ref DWG EXE/4 and the suitability of the access is therefore relevant.
7. During my site visit, and notwithstanding that this was for a limited duration during the course of a working day, I observed a number of vehicles, including heavy goods vehicles, travelling at high speeds in both directions. Due to the alignment of the road and proximity of the site's hedgerows in relation thereto, the visibility to the left is constrained. A similar situation exists to the right, but the hill crests a short distance from the site and further limits the extent of visibility in this direction. Recent alterations to the hedges may have improved the visibility in either direction to an extent, however, due to the restricted visibility, drivers need to edge as close as possible to the carriageway to see approaching vehicles. When combined with vehicles moving at fast speeds, this driver behaviour lends to a particularly precarious situation.
8. For roads subject of the NSL, the County Council's Highways Officer advises that visibility splays should be 2.4m by 215m in each direction so as to allow exiting traffic from the appeal site to have sufficient angles of view of oncoming and fast moving traffic. While I note the appellant's assertion that the proposal would utilise an existing access, on the evidence before me, I cannot conclude with any degree of certainty that the proposed visibility splays, which appear to be considerably shorter than that recommended by the County Council, would not give rise to highway safety concerns.
9. I have considered whether this matter could be resolved through the imposition of a suitably worded planning condition with reference to the amended plan Ref Dwg EXE/4 - AMEND. However, to impose such a condition, I would need to be satisfied that a sufficient visibility splay could be implemented in the first place. There is doubt about the visibility splays that would be achieved were the access to be repositioned in such a way, particularly as it would appear to involve the reinstatement of a hedgerow to the right of the access point. Whilst the appellant claims that the visibility splays would be improved in both directions, the scaled plan and my own observations indicate that the degree of improvement has been overstated. There is also the potential that the visibility in both directions would be undermined through hedgerow vegetation growing out into the verge as is likely to occur through Spring and Summer.

10. Another means of agreeing a reduced visibility splay is to utilise the results of a speed survey of vehicles passing the site to determine the sight stopping distances which is advocated in relevant highway-related guidance. Whilst this case may fall somewhere between the two and site-specific response may be more appropriate, I do not have sufficient evidence that the visibility splays offered in plan Ref DWG EXE/4 - AMEND are the maximum splays achievable in order to protect all highway users. As such, I am unable to conclude that the matter can be resolved satisfactorily or at all at the conditions stage.
11. Consequently, for the purposes of this development I find conflict with Policy DM05 of the North Devon and Torridge Local Plan 2018 which seeks to ensure safe and well-designed vehicular access and egress, adequate parking and layouts which consider the needs and accessibility of all highway users. I also find conflict with Paragraph 108 of the National Planning Policy Framework which seeks to ensure safe and suitable access can be achieved for all users.

Other Matters

12. I note that the appellant is accustomed to regularly using the site access in its current form and has have done so over a number of years. I also note that the appellant has access to vehicles and farm machinery suited to the site conditions that may afford a marginally better range of visibility than a typical car. However, I am required to consider the potential effects on the current and future users of the site, as well as all other users of the highway.

Conclusion

13. For the reasons given above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR