



Appeal Decision

Site visit made on 3 August 2020

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2020

Appeal Ref: APP/K1128/W/20/3253688

Post Barn, Ashprington Cross, Ashprington, Totnes, Devon TQ9 7EA

- 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 Dr Philip Johnston and Dr Cathryn Edwards against the decision of South Hams District Council.
 - The application Ref 2198/19/FUL, dated 1 July 2019, was refused by notice dated 5 December 2019.
 - The development proposed is described as cladding of an existing gate and topping off of a stone wall.
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1. The appeal is allowed and planning permission is granted for the cladding of an existing gate and topping off of a stone wall at Post Barn, Ashprington Cross, Ashprington, Totnes, Devon TQ9 7EA in accordance with the terms of the application, Ref 2198/19/FUL, dated 1 July 2019, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following documents and approved plans: Application form; Planning Statement with Design and Access; Site location plan; Block Plan; Drawing No 170519/01; Drawing No 170519/02; and Drawing No 170519/03.
 - 2) The stone wall on the Proposed Southwest Elevation as shown on Drawing No 170519/02 shall be maintained in its current natural state.

Application for costs

2. An application for costs was made by Dr P Johnston and Dr C Edwards against South Hams District Council. This application is the subject of a separate Decision.

Procedural Matters

3. At the time of my site visit, I saw that the works described in the description of development had been carried out. I have dealt with the appeal on this basis.

Main Issue

4. The main issue is whether the development has had an unacceptable impact on highway safety.

Reasons

5. Situated in a rural setting, the appeal site lies adjacent to Ashprington Cross. Part of the wall the subject of the appeal proposal faces the crossroads. The other section of wall and the gate face the well-used highway which runs

between Totnes and Ashprington. There are hedges at either end of the wall and running along the surrounding roads.

6. Although the appeal site has been the subject of several planning applications and permissions in the past few years, residential use of the site was approved by the Council under planning permission 01/0108/15/F. This permission has been implemented and therefore forms the extant situation.
7. The available evidence indicates that there is no condition on the extant permission which requires the visibility splay and relocated boundary treatment, as shown on the drawings approved under 01/0108/15/F, to be provided. On this basis, the Council has indicated that it is not in a position to require the implementation of the visibility splay through enforcement action. I have therefore restricted my considerations to the works detailed in the description of development and shown on the submitted plans.
8. The works the subject of the appeal involve the existing gate, which has been clad in timber, and two relatively short sections of the existing wall on the site's south-western boundary. The appellants and Council state that the height of those sections of wall has been increased by approximately 10-15 centimetres. I note that several objectors disagree with this and suggest that the height increase is considerably greater. However, some of the images submitted in support of this are of limited quality while others generally contain insufficient detail to accurately ascertain the varying height of the wall prior to the carrying out of the works proposed.
9. Accordingly, and with limited substantive evidence to indicate otherwise, I have assessed the appeal proposal on the basis of the submitted plans, which are drawn to scale and the Council has not raised any concerns with them. Furthermore, I note that the works have essentially made the wall height generally consistent along its length. With little substantive evidence to the contrary, it appears that this was also broadly the previous height of the wall, with the works essentially restoring it to its former state, and its alignment and position have not been altered. My observations on my site visit do not lead me to a different conclusion.
10. As per the available evidence and as I observed on my site visit, boundary treatment on the site and running along the surrounding highway limits visibility for highway users approaching and negotiating the junction at Ashprington Cross. However, the gate is not located in a position that it would have provided significant visibility to and from the junction in its previously unclad state, and the appeal proposal involves a limited increase in the height of two relatively short sections of wall, up to the height of the rest of it. The adjoining hedges and nearby telegraph pole also serve to limit visibility in the immediate vicinity of the wall and junction.
11. With little substantive evidence to demonstrate otherwise, it seems to me that the two previously lower sections of wall would therefore have provided vehicles approaching and negotiating Ashprington Cross with only fleeting glimpses and limited additional views of other approaching vehicles on the surrounding highway. Even if the wall was previously lower than that shown on Drawing No 170519/02, the additional views available would have nevertheless been restricted to limited, fleeting glimpses. Accordingly, the development neither significantly reduces visibility for highway users nor unacceptably exacerbates visibility constraints at and approaching the junction.

12. In coming to this view, I have taken account of the disagreement about the overall height increase of parts of the wall. Furthermore, it seems to me that restricted visibility on the rural highway network and the need for vehicles to sometimes edge out of some junctions to gain a better view is not uncommon and should not be an unexpected scenario for highway users. In this case, road signs also warn drivers of the approaching junction and the need to slow down.
13. The main vehicular access to the site is via the existing entrance on the eastern boundary and the appellants have indicated that the gateway on the south-west boundary is seldom used and provides emergency access only. I observed on my site visit that there is an unmade area of grass behind that gate and the hard surfaced parking area is accessed through the main vehicular entrance. Accordingly, the appeal proposal does not significantly harm highway safety in terms of vehicular access to and from the site. The height and type of vehicles entering and exiting the site do not lead me to a different conclusion.
14. I note that the Highway Authority initially objected to the planning application and set out, amongst other aspects, that visibility at the junction is woefully substandard. However, following discussions with the Council, the Principal Highways Development Management Officer subsequently updated the Highway Authority's position stating, in relation to the before and after scenarios, that "there could be a very minimal improvement to visibility but nothing in my opinion that should warrant objection to the application".
15. I acknowledge the concerns raised by Councillors, members of the public and the Highway Authority regarding highway safety at Ashprington Cross, and that the visibility splay shown on previously approved plans would have improved visibility for highway users. However, the provision of a visibility splay is not a matter before me as part of this appeal. I have therefore restricted my consideration to the main issue, which in this case is whether the works to the existing gate and wall have had an unacceptable impact on highway safety.
16. Interested parties have submitted representations setting out that traffic has increased in recent years, the speed of traffic is too fast, there have been some collisions and near misses at Ashprington Cross and a high-speed side-on collision could cause significant damage. Soft landscaping is also identified by interested parties as impeding visibility and I note that local buses have identified the junction as dangerous and have to take action to compensate. Be that as it may, I have found that the appeal proposal does not significantly reduce or exacerbate visibility constraints for highway users compared to the situation prior to the proposed development having been carried out. Dismissing the appeal and the reinstatement of the gate and wall to their previous condition would therefore not significantly improve highway safety. Nor would it change the position regarding the Council's stated inability to require the visibility splay shown on previously approved plans to be provided.
17. For the above reasons, I conclude that the development has not had an unacceptable impact on highway safety. I therefore find that it accords with Policy DEV29 of the Plymouth and South West Devon Joint Local Plan 2014-2024. Amongst other aspects, this requires development to contribute positively to the achievement of a safe transport system, consider the impact on the wider transport network and provide safe traffic movement and vehicular access. The proposal would also be consistent with the provisions in the National Planning Policy Framework in relation to highway safety.

Other matters

18. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such as whether a planning application was really required for the works the subject of the appeal proposal, various aspects related to the planning history of the site, previously stated intentions and actions with respect to relocating boundary treatment on the site to improve visibility at Ashprington Cross, and the Council's actions and decisions on previous planning applications. However, whilst I take these representations seriously, they do not lead me to a different overall conclusion that the appeal should be allowed.

Conclusion and Conditions

19. For the above reasons, the appeal is allowed.
20. The standard time limit condition is not necessary because the development has already been carried out. I have imposed a condition requiring that the development is carried out in accordance with the submitted documents and plans in the interests of certainty. In the interest of visual amenity, it is also necessary to include a condition which ensures that the stone wall is maintained in its current state. However, for clarity, I have amended the Council's suggested wording.

Tobias Gethin

INSPECTOR