



Appeal Decision

Site visit made on 13 October 2020

by R Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 November 2020

Appeal Ref: APP/L3245/W/20/3250751

Hayes Barn, Racecourse Road, Oswestry SY10 7PH

- 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 Ms Sophie Dillon against the decision of Shropshire Council.
 - The application Ref 18/02843/FUL, dated 18 June 2018, was refused by notice dated 28 January 2020.
 - The development proposed is a change of use from dwelling house providing bed and breakfast accommodation to dwelling house providing bed and breakfast accommodation, A3 (Restaurant) Use Class and A4 (Drinking Establishment) Use Class.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal property lies close to The Hayes, a Grade II* listed building. There is no dispute between the main parties that the proposed development would not have an adverse effect on the setting of the listed building. Having considered the proposal and visited the site I concur with that view. Accordingly, it is my view that the development proposed would preserve the setting of the designated heritage asset and I shall make no further reference to this matter.

Main Issue

3. The main issue is the effect of the development on highway safety.

Reasons

4. The site is located outside of the main settlement area of Oswestry and is accessed along Racecourse Road (B4580), a national speed limit road running roughly westwards from the town. The proposed access would provide a wider vehicular entrance and exit with a demarcated centre line to enable vehicles to manoeuvre at the access in both directions simultaneously. According to the submitted plans, the access would be extended in a south-easterly direction to provide enhanced visibility on exit from the site.
5. Although the internal floor areas attributed to the proposed A3 and A4 uses shown on the submitted plans are limited, these could be augmented by the large external areas of the site such that the proposal would have significant potential to increase the frequency of traffic movements into and out of the site. In comparison to the existing mixed residential and bed and breakfast use, this would cause an increase in traffic that, in my view, would likely be at least several times that generated by the existing uses.

6. The achievable splays shown on plan ref SA29797-H-01 indicate visibility of up to about 89m in both directions for traffic emerging on to the public road. However, parts of these splays lie within areas covered by trees and vegetation which have the potential to impede the views of drivers of emerging vehicles. Furthermore, on the basis of the evidence before me, parts of the splays lie over land that is either outside of the appellant's control or the adopted highway.
7. As the majority of the land within the splays lies outside of the appeal site, in the absence of detail of any agreement with the relevant land owners to maintain the land, the only legitimate mechanism to secure the maintenance of the sightlines is a 'Grampian' condition to secure off-site works. However, the National Planning Practice Guidance (PPG) advises that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission.
8. In order to facilitate the proposed change of use, the improvements to the access would need to take place before the use commenced to ensure the safety of people attending the site. The current owner/s of part of the adjacent land have indicated that they would not currently be amenable to allowing the requisite maintenance of the land.
9. Whilst this position could change within the timescale for implementation of any permission, the nature of the works are such that there would be an ongoing requirement for maintenance due to the continuing growth of the vegetation. Any agreement that might subsequently be reached would provide comfort only insofar as that agreement prevailed. As such, no guarantee would exist in the event that either of the third-party land ownerships changed, or a change of mind occurred. The safety of the access could not therefore be assured for the duration of the development.
10. In the context of Paragraph 55 of the National Planning Policy Framework (the Framework) and advice in the PPG, whilst I find a condition requiring the formation and maintenance of the splays would be necessary, relevant and could be made precise, it would not pass the tests of reasonableness or enforceability outside any period of agreement with the landowners. Accordingly, the achievable visibility splays are limited such that highway safety would be significantly prejudiced by the increases in traffic using the access.
11. In the event that those visibility splays could be achieved, the Council's highway advisors expressed concern that the traffic speeds identified in the appellant's road speed survey results could increase as a consequence of enhanced forward visibility for drivers and that road speeds could also be deleterious to increased pedestrian flows generated by the development. The Council therefore recommended a reduction in the speed limit from 60 mph to 40 mph in the vicinity of the site, the costs of which were to be borne by the developer through a planning obligation under s106 of the Town and Country Planning Act 1990.
12. To that end the appellant has provided a unilateral undertaking to provide to the highway authority for the locality, a payment of £5k to cover its costs in implementing a Traffic Regulation Order and associated works. However, the agreement is incomplete insofar as it does not include a signed and attached plan identifying the site. Furthermore, the financial contribution is less than

that specified in the Council's highway advisor's response, dated 9 November 2019.

13. However, even if the planning obligation were complete, given my findings in respect of securing adequate visibility at the access, I find that any associated improvement to highway safety would not achieve a suitable standard of visibility. Accordingly, it would not, in itself, make the development acceptable in planning terms and it follows that the agreement would be contrary to the tests set out in Paragraph 56 of the Framework.
14. I accept that the alteration of the access would provide some benefit to visibility in comparison to the existing situation. However, in balancing the use of a substandard access by a greater amount of traffic, this is a matter of limited weight in favour of the development. It would not, therefore, outweigh the harm I have identified.
15. For the above reasons, I find that the absence of a mechanism to secure suitable driver visibility at the access for the duration of the development would conflict with Policy CS6 of the Shropshire Local Development Framework Adopted Core Strategy (2011) and Policy MD2 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan (2015) as they seek to secure sustainable design that, amongst other things, is safe and accessible to all.

Other Matters

16. I acknowledge that the proposal would support and diversify an existing business which could enhance its viability and give rise to social and economic benefits. This would align with the Council's policies which support rural enterprise and communities. However, this must be considered within the context of the aim to achieve sustainable development which includes the provision of safe accessibility. For the reasons set out above, I do not find that the proposal achieves that aim and those benefits are not sufficient to outweigh the attendant harm to highway safety in the locality.
17. Since the date of the Council's decision, some of the woodland areas about the site's access have been protected under a Tree Preservation Order. This is a matter that was raised by some third parties. Whilst I have consulted the main parties on this issue, it was not a reason for refusal by the Council. As I have found against the development on highway safety grounds, I do not consider it necessary to scrutinize the effect on trees any further.
18. I have noted the objections and letters of support from local residents and third parties to the proposal. However, in the light of my findings on the main issue of the appeal, my decision does not turn on these matters. The lack of any other objection by the Council to the proposal is not a benefit in its favour.

Conclusion

19. For the above reasons, the appeal should be dismissed.

R Hitchcock

INSPECTOR