



Appeal Decision

Site visit made on 8 December 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 3 February 2021

Appeal Ref: APP/W1850/W/20/3257511

Kentrev Nursery, Llangrove, Hereford, HR9 6EZ

- 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 Nigel Wilkes against the decision of Herefordshire Council.
 - The application Ref 201219, dated 17 April 2020, was refused by notice dated 8 July 2020.
 - The development proposed is the demolition of existing commercial greenhouses and construction of two residential dwellings (C3) along with associated infrastructure.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are the effect of the development on:
 - highway safety; and,
 - the River Wye Special Area of Conservation.

Reasons

Highway safety

3. The appeal site is part of a commercial plant nursery on the edge of the small village of Llangrove. It is accessed from the main road along Church Lane, which is an unadopted, unmade, single-track road of approximately 180 metres length that terminates at the entrance to the appeal site.
4. Church Lane is approximately 3 metres wide and therefore too narrow for vehicles to pass each other. There are no formal passing places, and visibility is hindered by a slight bend in the road and substantial hedgerows on both sides. I observed occasional driveways along the lane but, given their size and orientation, these are not easy to pull into. I consider that most drivers would reverse along the lane when meeting another vehicle. If travelling south, this would mean reversing onto a T-junction with the main road, on the corners of which are a primary school and a church.
5. Visibility at the T-junction is severely limited by a high, stone wall and trees associated with the churchyard. Wire fencing around the school grounds reduces visibility in the other direction, albeit to a lesser extent. The Council considers that visibility at the junction does not meet established guidance

levels and the appellant has not provided evidence to the contrary. I observed that cars parking around the junction at busy times reduce the visibility further. I consider that visibility at the junction is well below the appropriate standard.

6. I observed that the junction was regularly crossed by pedestrians, including at the start of the school day. When viewed from a vehicle on Church Lane, children are hidden by the high churchyard wall until the moment they step onto the road. In addition, there is no local footway, resulting in no clear separation between pedestrians and the road. The appellant suggests that timing of commuters would not clash with school opening and closing times, but in the absence of evidence to substantiate this, I consider that overlap is likely, particularly given wraparound school provision. Regardless, other pedestrians would cross the junction to access the church and walk around the village during the rest of the day. I also note a significant number of representations from third parties raising concerns regarding the safety of the junction. I conclude that any increase in traffic at this substandard junction would unacceptably increase the risk to pedestrians.
7. In addition, if reversing onto the junction it would be necessary to put almost the whole car into the main road before seeing beyond the churchyard wall. I consider that this would inevitably increase the risk to on-coming traffic, albeit this would be to a small degree given the modest speeds indicated by data presented in the Transport Statement¹.
8. I acknowledge that there are no accidents recorded by the police at this location. Accident data can be a useful indicator of safety at a junction but do not account for vehicle collisions where there has not been an injury. I therefore do not consider this definitive evidence that the junction is safe. The appellant has also drawn my attention to the Manual for Streets, which suggests that visibility is not necessarily a major factor in accidents. In this case, poor visibility makes the junction difficult to negotiate and would contribute to the likelihood of an accident.
9. The lack of passing spaces could result in a delay to access for emergency vehicles to properties using Church Lane for access. There are undoubtedly many examples locally of narrow lanes where field entrances are used as passing places. However, Church Lane does not have any field entrances or similar that would be easy to pull into and is therefore not comparable.
10. The Council has recently granted permission to develop 3 houses² on the remaining nursery land. When assessing the scheme's effects on traffic movements the Council reviewed the number of trips associated with the nursery and concluded that those generated by 3 houses was broadly equivalent. On that basis, there was no justification for refusing the scheme on highway safety grounds. The addition of 2 more houses will generate additional movements onto a lane and junction which are already sub-standard. In my view this would unacceptably increase the risk of conflict between vehicles and pedestrians. In addition, the total number of houses would exceed the threshold for higher safety standards required by the Council's Design Guide³, which contributed to the highway authority's objection.

¹ Hub Transport Planning Ltd (3 April 2020)

² P200020/F (1 April 2020)

³ Highways Design Guide for New Developments (Herefordshire Council, 2006)

11. The new turning head at the nursery site would mean that larger vehicles could negotiate the road both ways in a forward gear. This is secured as part of the extant permission, but to an extent the schemes rely upon each other, and this factor is therefore material in improving highway safety. However, it is not sufficient to overcome the increased risk to safety identified above.
12. The appellant has brought an appeal to my attention regarding a backland development in the West Midlands⁴. Access tracks were short in length, visibility was unhindered and any obstruction would therefore be brief. Critically, there is no suggestion that cars would have needed to enter the main road in a reverse gear. I therefore do not consider that scheme comparable with the appeal before me.
13. The appellant advances the fallback position that, should the nursery business continue, there would not be a cap on the number of trips. I do not find this credible for 2 reasons. The first is that the business is described as having reduced over recent years, with a view to winding it down. The second is that the removal of the greenhouse on the appeal site has been secured by a condition of the adjacent permission. I note that the appellant disputes that this is enforceable. It is not for me to come to a decision on this, but even if it were the case, all evidence points to cessation of the business.
14. I conclude that additional vehicle movements would increase the risk to highway safety in the area to an unacceptable degree. The proposal is therefore contrary to Policy MT1 of the Herefordshire Local Plan Core Strategy (2011-2031)⁵ (LP), which requires that development does not adversely affect the safe flow of traffic.
15. It has been brought to my attention that the 5-yearly review of the local plan is slightly delayed. I am satisfied that Policy MT1 remains consistent with policies in the National Planning Policy Framework (2019) (Framework) and therefore it attracts full weight.

River Wye Special Area of Conservation (SAC)

16. The appeal site is approximately 3 km from the River Wye SAC, which is designated for its aquatic ecological interest. It is in a sub-catchment of the River Wye and within the 'Impact Risk Zone', which means that it could potentially have adverse impacts. It must therefore be subject to a Habitats Regulations Assessment (HRA) under the Conservation of Species and Habitats Regulations (2017) (as amended).
17. The first stage of the HRA is to undertake a screening exercise to determine if the proposal is likely to have a significant effect on the important interest features of the SAC, alone or in combination with other plans and projects. The Council has undertaken a screening assessment and identified that discharge of both foul and surface water could cause likely significant effects.
18. Since then, Welsh Water have confirmed that connection to mains foul sewer is viable and the Council has concluded that there are no longer likely significant effects with regard to foul water. I can see no reason to disagree with this conclusion.

⁴ APP/G4620/A/11/2165538 (27 June 2012)

⁵ Adopted 15 October 2015

19. A 'drainage statement' has been submitted for disposal of surface water, which explains that discharge would be to SuDS. I am satisfied that likely significant effects from surface water discharge would not occur during construction or operation given the considerable distance between the site and the SAC, negligible potential for polluting discharge given the proposed use, and that recharge to the ground is likely to be increased. For the same reasons, I do not consider that there would be a likely significant effect in combination with the planned adjacent development.
20. On this basis, I am satisfied that the proposal will not adversely affect the integrity of the European site, in line with Regulation 64 of the Habitats Regulations. The proposal therefore meets the requirements of Policies LD2 and SD4 of the LP, which require protection of sites and species of European importance. I consider that these policies are consistent with paragraph 175 of the Framework, and therefore attribute them full weight.
21. However, given that the site is located in the Impact Risk Zone, it would be necessary for Natural England to confirm that it agrees with this conclusion. As I am dismissing the appeal for other reasons, I have not considered it necessary to refer the matter to them.

Other considerations

22. The proposal would produce 2 houses, which would make a minor contribution to the local housing supply and economy. Brownfield land would be redeveloped, more green space would be available for biodiversity and runoff is likely to be reduced. In addition, there would be benefits to the landscape from removal of commercial scale glasshouses, and a potential improvement to the living conditions of neighbours from a reduction in commercial noise and light. A cessation of heavy commercial vehicles and a turning circle would also be secured. These are matters for which there is support from development plan policies, which I find to be consistent with the Framework, and overall, I attribute these benefits moderate weight.

Planning balance and conclusion

23. The Council is unable to demonstrate a 5-year supply of deliverable housing sites. The presumption in favour of sustainable development in paragraph 11(d) of the Framework is therefore engaged.
24. Paragraph 109 of the Framework states that development should be refused on highways grounds if there would be an unacceptable impact on highway safety. I have found that the additional traffic created by the proposal would cause the impact to be unacceptable and this is a matter of great weight. For this reason, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits.
25. Policy SS1 of the LP states that planning permission should not be granted in the event of overall conflict with national policies. I therefore conclude that the proposal conflicts with the development plan when read as a whole and the appeal is dismissed.

B Davies

INSPECTOR