
Appeal Decision

Site visit made on 2 February 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2021

Appeal Ref: APP/H1840/W/20/3262418
Barn off Green Lane, Oddingley WR9 7NF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Ms Estella Collett against the decision of Wychavon District Council.
 - The application Ref 20/00538/GPDQ, dated 10 March 2020, was refused by notice dated 7 May 2020.
 - The development proposed is notification for prior approval for a proposed change of use of agricultural building to a dwellinghouse (Class C3), and for associated operational development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development has been taken from the Council's decision notice as it is more comprehensive in comparison to the application forms. The dates between the application being submitted and a decision being issued have been clarified by both parties, confirming that the Council issued its decision within the prescribed timescales. The appeal has been dealt with accordingly.

Main Issue

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

Reasons

4. The site is located at the end of a long and narrow private vehicular track which links the barn with Green Lane. Access to Green Lane is subsequently achieved via an unmade vehicular crossing. Either side of the access is a narrow verge, set back from which are hedgerows and boundary fencing which impede visibility on entry and exit. This something I experienced first-hand during my site visit. My observations correlate with the physical dimensions of the access where the visibility splays are below the requirements set out in guidance. Consequently, the intensification of the use of the access and reduced visibility resultant from the proposal would increase the risk of vehicular collisions along Green Lane, to the detriment of highway safety.

5. It appears the land required to achieve adequate visibility splays is not within the appellant's control, nor is it identified within the red line boundary under the application. Furthermore, there is no mechanism in front of me, through legal agreement or otherwise, with which to secure the visibility splays and maintenance of them in perpetuity. A non-binding statement from neighbours is not something that can be relied on or enforced against.
6. Regarding the setback distance, and the reduced measurement of 2m, the relevant guidance states that it may be considered only in some situations and not as a matter of course. There is no evidence in front of me that it provides an adequate fallback position in every situation where the more robust setback measurement cannot be achieved.
7. There is not an in depth analysis of the different scenarios where one particular setback distance would be acceptable over another, or that the characteristics of the site accord with the intent and meaning of terms within the relevant guidance when applying the reduced measurement. For example, it is not clear what constitutes slow speed, is it 30mph, 20mph or something else? Accordingly, there is no compelling evidence that a more robust setback measurement should not be observed in this case.
8. The lawful development certificate for the access track demonstrates that it is lawful as a result of the passage of time and not necessarily because of an assessment of highway safety. Furthermore, it relates to an agricultural access. Consequently, it carries limited weight under this appeal which deals with highway safety of a residential access, operating in such a way that is materially different by comparison. For example, in a residential context, the countryside location would require occupants to conduct day to day trips by private car, a reliance on which is likely to generate additional trips compared to an agricultural use for storage.
9. During my site visit, it appeared as if there was sufficient land in the vicinity of the barn for vehicles to turn, supporting the contention that vehicles can enter and leave the site in a forward gear. However, this land is not included within the red line boundary under the application and therefore I am unable to conclude that it can be used in such a way in conjunction with the proposal. Even in the event it did form part of the application, a turning area would not overcome the deficiencies in visibility at the access point with Green Lane.
10. Overall, the lack of accidents in the area generally indicates that the highway network is relatively safe. Consequently, introducing an inherently unsafe access, with visibility splays that fail to accord with relevant guidance, would have an overall detrimental effect on highway safety.

Conclusion

11. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR