



Appeal Decision

Site Visit made on 22 March 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/C3105/W/20/3256935

Aviyal, Station Road, Ardley, Bicester, Oxfordshire OX27 7PQ

- 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 Dave Munnings, Dave Munnings Ltd against the decision of Cherwell District Council.
 - The application Ref 19/01542/F, dated 5 August 2019, was refused by notice dated 6 April 2020.
 - The development proposed is change of use from equestrian to dog agility training centre and extension of the domestic curtilage of Aviyal to include the existing land to the north enabling the existing stable block to be used as ancillary outbuilding.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Dave Munnings, Dave Munnings Ltd against Cherwell District Council. This application is the subject of a separate Decision.

Main Issue

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

Reasons

4. The appellant's dog agility training business would result in more traffic being attracted to the site than the current situation. There is no dispute that the general location is appropriate for the business, or that additional traffic would not significantly affect the operation of the wider highway network.
5. The highway at the access is subject to a 40mph speed limit. However, it is close to the end of the restricted section and observed traffic speeds are in excess of the limit. Evidence from both main parties indicates that the observed 85th percentile speed requires visibility splays of 160m in both directions (the 'Y' distance), or 120m if one step below this desirable minimum was accepted. 160m is available looking to the left on egress, but the evidence does not demonstrate that it is or can be made available to the right, where the road alignment and vegetation obscures visibility.
6. The point of access already exists and its geometry would be improved as part of the proposal. There is no history of accidents associated with the access, the total number of traffic movements in connection with the proposed use would be relatively small and could be controlled with planning conditions. Nevertheless, there would still be a significant increase over and above the

existing use of the site, even taking into account that employees at the business may be resident at the site, reducing peak-time movements. Visitors in connection with the use may also be unfamiliar with the road characteristics. Therefore, the existing situation does not demonstrate that the access would be safe for the amount of traffic likely to be generated.

7. A Road Safety Audit identified that vegetation clearance was required to achieve the proposed 120m visibility splays. There is dispute over whether this could be secured due to land ownership uncertainties. However, even if I were to accept that the land in question was within the limits of the highway, the introduction to the Audit sets out that the Audit Team had been notified that the proposed splay was to be 120m, that they have only reported the road safety implications of the presented scheme, and were not examining or verifying the compliance to any other criteria. Therefore, I find that this does not demonstrate that a 120m visibility splay is sufficient.
8. I understand that a residential development a little further along Station Road has been allowed with 120m visibility splays. However, that site is further within the 40mph speed limit and the clear presence of dwellings gives the highway a less rural character at that point. I, therefore, give that limited weight in determining appropriate visibility splays at the appeal site.
9. I am mindful that Manual for Streets 2 (MfS), indicates that a reduction in visibility below recommended levels will not necessarily lead to a significant problem. However, that is not in itself clarification that it would be safe. Moreover, that guidance is based upon a research conclusion that a study was unable to demonstrate that road safety concerns regarding a reduced Y distance are directly associated with increased collision risk at high-risk urban sites. This site is in a predominantly rural location where the road characteristics themselves provide no clear reason to reduce speed. Therefore, I give greater weight to the advice in the same MfS paragraph that the Y distance should be based on recommended 'stopping sight distance' values.
10. I understand that it would be possible for the appellant to carry out various activities on the land for up to 28 days per year without needing express planning permission. These could attract more traffic than the appellant's business, subject to the suggested conditions. However, that in itself does not demonstrate that the access would be safe to accommodate that volume of traffic and the proposal also seeks permission to carry out the business activities on more than 28 days per year. Therefore, I attribute this fallback position limited weight.
11. With regard to the above, I find no compelling evidence that visibility splays less than 160m should be provided. As such, I conclude that the available visibility to the right is inadequate to ensure that the increased traffic would not harm highway safety. This leads the proposal to conflict with those aims of Policy SLE1 of the Cherwell Local Plan 2011-2031 Part 1 that seek to ensure that development does not cause detriment to the highway network.
12. Having reached this conclusion, I have considered whether a reduction in the speed limit, either by extension of the 40mph limit or imposition of a 30mph limit could remedy the harm that I have identified.
13. The local highway authority is concerned that, in the absence of physical traffic calming, an alteration to the speed limit would have little effect on vehicle

speeds. The appellant has suggested that, to accompany a reduction in the speed limit, a build-out could be constructed to secure priority or shuttle working along a small stretch of highway. Such has been installed elsewhere in Oxfordshire.

14. However, even if traffic could negotiate the build-out without causing severe delay to traffic, the road alignment would restrict forward visibility of the obstruction. Forward visibility would be further reduced if a queue were to form, so the build-out could result in a risk of nose-to-tail or failure to give way collisions. A further Road Safety Audit recommended that adequate forward visibility should be provided to address this concern but the evidence does not clearly demonstrate that this could be achieved, even if lower speeds from the reduced speed limit were assumed.
15. I understand that delivery vehicles, refuse collection vehicles and the like currently stop on Station Road. However, these would not be permanent obstructions, thereby reducing any collision risk associated with them and so are of limited weight in my assessment. There is evidence of accidents at other similar traffic calming features in Oxfordshire and, while they may not be regular, I cannot be certain that the visibility and vehicle speeds around them are comparable to the appeal site. Their use elsewhere, therefore, has little influence over my decision in this case.
16. There could be highway safety benefits to other residents of Ardley if vehicle speeds were slowed through the settlement. However, even with regard to potential increases in traffic flows from a nearby development at Upper Heyford, there is no substantive evidence that there is a particular highway safety concern that needs to be addressed. I, therefore, give these wider benefits limited weight.
17. With regard to the above, I conclude that the proposal would harm highway safety. While I find that two of the policies cited in the Council's reason for refusal, namely LP Policy ESD15 and PC1 of the Mid-Cherwell Neighbourhood Plan 2018-2031 do not weigh against the proposal, the harm to safety that I have identified results in a conflict with the development plan considered as a whole. That cannot be remedied by planning conditions and material considerations do not weigh against this harm.
18. Therefore, the appeal is dismissed.

M Bale

INSPECTOR