



Appeal Decision

Site visit made on 22 April 2021

by Elaine Benson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2021

Appeal Ref: APP/R3705/W/21/3267144

89-91 Main Road, Austrey CV9 3EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Darren Burchell against North Warwickshire Borough Council.
 - The application Ref PAP/2020/0303, is dated 18 June 2020.
 - The development proposed is conversion of outbuilding to dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of outbuilding to dwelling at 91 Main Road, Austrey CV9 3EG in accordance with the terms of the application, Ref PAP/2020/0303, dated 18 June 2020, subject to the conditions on the attached Schedule.

Preliminary Matters

2. The Council confirms that had it had the opportunity to determine the planning application, it would have been refused on highway safety grounds.
3. Since the submission of the appeal, the revised National Planning Policy Framework (the Framework) has been published. Since there is no change to national policy and guidance in relation to the matters at issue in this appeal, the comments of the main parties on the Framework have not been sought.

Main Issue

4. The Council raises no objections to the principle or most details of the proposed development. Having regard to all of the evidence, including the status of the relevant development plan policies as confirmed by the Council, there are no reasons to disagree. The main issue in this appeal therefore is the effect of the proposed development on highway safety.

Reasons

5. It is proposed to convert a building comprising a garage and workshop to a dwelling. It is one of a number of outbuildings at the rear of No 89-90 Main Rd, a substantial dwelling in extensive grounds.
6. The appeal building would be served by an existing access which is used by the appellant to reach the rear of their property. The access leads from the appeal site onto Flats Lane before joining Main Rd. Flats Lane also provides access to the garage belonging to the neighbouring property (No 99) which opens onto it. The lane is also used by agricultural vehicles accessing the fields to the rear. A public footpath runs alongside the lane.

7. At issue in this appeal is whether there would be a safe and suitable access to the site at the junction of Flats Lane and Main Rd. The Highway Authority considers it to be substandard due to the limited visibility at the junction of these 2 roads. The required standard of 2.4m x 43m can be achieved to the south. However, to the north visibility is restricted by planting and the building line. It is noted that this standard can be reduced in situations where there are low traffic speeds.
8. Main Rd is the principal route through the village, with streetlights and housing on both sides. The speed limit is 30mph and there are no parking restrictions. There are multiple lay-bys for parking along the length of the road, including directly opposite the site access, and most properties have off street parking. Notwithstanding the pandemic's effect on the number of traffic movements, the submitted road speed data establishes traffic speeds along Main Rd as below the 30mph limit. Moreover, as confirmed by local residents, traffic flow and speed in the locality of the access is slowed by the on-road parking by customers of the post office/shop on the opposite side of Main Rd and by the frequent turning of vehicles in the road. I also observed these conditions and it appears to me that these factors lead to an overall reduction in traffic speeds in the area.
9. Furthermore, in terms of the potential intensification of the use of the access, it is necessary to consider its existing use, including by agricultural vehicles. I am not convinced by the evidence that the number of vehicle movements associated with the occupation of a 2 bedroomed dwelling would have a material effect on the access onto Main Rd such as to harm highway safety. Pedestrians crossing the road at this junction would be aware of the potential for vehicle movements at this point, particularly as the access is already there. In my experience this situation would be little different to many accesses in village and rural locations. Furthermore, the access track would be widened to a uniform 3m along its length which would give additional space for users of the public right of way.
10. In accordance with the aims of the Framework and on the basis of the site-specific considerations, I conclude that the appeal proposal would not lead to an unacceptable impact on highway safety and there would be no severe residual cumulative impacts on the road network. Accordingly, the proposal would comply with the requirements of Core Strategy Policy NW10 (6) which requires proper access to development sites; Policy LP31 of the Submitted Local Plan which continues this approach, and the Proposed Modification MM74 to Policy LP31.

Other Matters

11. I have had special regard to the desirability of preserving the settings and any features of special architectural or historic interest which the nearby listed buildings Austrey Baptist Church and 87 Main Rd possess. I concur with the Council that due to the distance between the appeal site and the listed buildings and the presence of intervening buildings there would be no harm to, or loss of, the significance of these designated heritage assets or their settings.
12. There would be minimal alterations to the appearance of the appeal building and new windows would be screened by boundary fencing. There would be no overlooking of adjoining properties or any other harm to the living conditions of neighbouring occupiers.

13. In respect of concerns about potential flood risk in the area resulting from the proposal, the proposal is for a conversion and not new-build development and any surface water would be disposed of by soakaway. Notwithstanding the concerns of the Austrey Parish Council about incidents of flooding and flood damage nearby, there is no convincing evidence that there would be an increased flood risk here. In this regard I share the Council's view.

Conditions

14. A condition is necessary which sets out the approved drawing for the avoidance of doubt and in the interest of proper planning. In the interests of visual amenity and highway and pedestrian safety, details and specifications for the approved improvements to the access are required to be submitted to and approved in writing by the local planning authority for approval and thereafter retained.
15. The Council suggested a condition restricting the construction of outbuildings under Class E of the General Permitted Development Order. The Framework and the Planning Practice Guidance indicate that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this specific case the resulting dwellinghouse would have a large garden area, the site is close to the village boundary and it is bounded by a public footpath and nearby fields. There is therefore the potential for buildings otherwise permitted under Class E to harm visual amenities. In this regard I have also considered the Austrey Neighbourhood Plan Policies AP2 and AP3 which among other things seek to retain access to surrounding fields and to protect important views. Accordingly, for these reasons the suggested condition has been imposed.
16. The installation of an electric vehicle charging point is required by condition in the interests of sustainability. A further condition was suggested requiring the submission of a Construction Management Plan. However, as the proposal is for the conversion of a small-scale existing building which is likely to require fewer construction material deliveries and personnel than a new build development, and because the access to the site already exists, I consider that such a condition would be unreasonable and unduly onerous.

Conclusion

17. I have had regard to all other matters raised, including objections to the proposal from the Parish Council and neighbouring occupiers, but none affect my conclusions. For the reasons set out above the appeal should be allowed subject to the imposed conditions.

Elaine Benson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20 05 02 and 20 05 04.
- 3) Development shall not take place until full details and specifications for the approved improvements to the access have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the works have been carried out in accordance with the approved details. The access shall thereafter be retained as approved.
- 4) Notwithstanding the provisions of Class E of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no buildings or structures incidental to the enjoyment of a dwellinghouse shall be constructed.
- 5) Prior to the first occupation of the approved development, an electric vehicle charging point shall be installed and maintained in full working order at all times.