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# Appeal Decision

Site Visit made on 3 November 2021

**by Jonathan Edwards BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 November 2021**

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**Appeal Ref: APP/C3105/W/21/3277174**

**Land To The Rear Of 6 Chaucer Close, Bicester OX26 2XB**

- 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 G Clark against the decision of Cherwell District Council.
  - The application Ref 20/03327/F, dated 21 November 2020, was refused by notice dated 18 January 2021.
  - The development proposed is a detached dwelling with new access onto Howes Lane.
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## Decision

1. The appeal is allowed and planning permission is granted for the development of a detached dwelling with new access onto Howes Lane at land to the rear of 6 Chaucer Close, Bicester OX26 2XB in accordance with the terms of the application, Ref 20/03327/F, dated 21 November 2020, subject to the conditions in the Schedule at the end of this decision.

## Main Issues

2. The main issues are the effect of the proposal on (i) the character and appearance of the area, and (ii) highway safety in terms of visibility from the proposed access.

## Reasons

### *Character and appearance*

3. The site is set slightly below road level. To a degree its interior is screened from the pavement by hedges and boundary features but there are views onto the site through 2 gateways.
4. From directly in front, the dwelling and bicycle and bin stores would be seen through the retained gateway which would provide the vehicular access to the scheme. However, the bungalow would not be prominent in the street scene due to its low height and being set down, its position towards the side and rear of the plot and the screening effects of vegetation. A single storey workshop would be near the roadside boundary although the plans indicate that the lower part of this would be concealed by new planting.
5. There is no claim that a dwelling exists on the site but planning permission has been granted to allow it to be used as a private garden. Also, the plot looks like it is in residential use as it adjoins bungalows on Chaucer Close and it contains a lawn and structures similar to typical domestic outbuildings. Consequently, the proposed residence would be compatible with the character of the site and its surroundings.

6. The proposal would not appear isolated as it would be viewed with the adjacent dwellings. The access onto Howes Lane would be unusual but a gateway already exists and the dropped kerb and pavement crossover would be a minor change to the street scene. As such, the scheme would integrate with its context, even though no other nearby house faces onto Howes Lane.
7. As such, I conclude the development would not harm the character and appearance of the area. In these regards, it would accord with policy ESD15 of the Cherwell Local Plan Part 1 2015 (the LP) and saved policies C28 and C30 of the Cherwell Local Plan 1996. Amongst other things, these seek to ensure development complements and is compatible with its surroundings.

### *Highway safety*

8. As it passes the site, Howes Lane is a classified A road with a single lane in each direction and a 40 mph speed limit. Drivers leaving the proposal would have clear visibility of traffic from the right as the highway is straight for a significant distance. To the left, a signalised junction exists where Shakespeare Drive meets Howes Lane. Between the access and the traffic lights the road is mainly straight with a slight bend at the junction.
9. The appellant has provided a drawing to demonstrate that a 2.4 m x 79 m visibility splay can be achieved to the left of the proposed access. The Council does not challenge the accuracy of this plan and it confirms my site observations on the extent of visibility. Also, the Council does not contest the appellant's claim that such a sightline would be commensurate with a 40 mph speed limit having regard to guidance contained in Manual for Streets (MfS).
10. The Council and Oxfordshire County Council as highway authority suggest that the MfS should not apply but that the scheme should be assessed against the Design Manual for Roads and Bridges (DMRB). However, this is the standard for trunk roads and there is no evidence to indicate that Howes Lane is classed as such. Paragraph 1.4.4 of MfS states the DMRB is not an appropriate design guideline for most streets. Also, paragraph 1.3.2 of Manual for Streets 2 (MfS2) states that, regardless of speed limits, designers should start with the MfS for any scheme affecting non-trunk roads. As such, I am not persuaded that DMRB standards should be determinative in ascertaining suitable visibility splays. In arriving at this view, I have had regard to the evidence on local traffic speeds and the number of other direct accesses onto Howes Lane.
11. In any event, paragraph 1.3.3 of the MfS2 states when referring to DMRB for guidance, it should be applied in a way that respects local context. The Council advise that a visibility splay of 120 m length is required to comply with DMRB standards. The appellant's evidence indicates this could be achieved to the left of the proposed access if measured at a 1 m offset from the nearside edge of the carriageway. Such an approach to measuring visibility splays is unconventional. However, the area of concern in this case relates to the visibility of traffic on the other side of the road to the site. Therefore, the appellant's evidence is useful in demonstrating that drivers leaving the proposal would be able to see traffic coming from the left for a similar distance to that stipulated by the Council and highway authority.
12. There are times when traffic on Howes Lane stops at the signalised junction. The subsequent queue would obstruct views from the access of vehicles turning out of Shakespeare Drive and travelling towards the site. However, on my visit

I saw that the sequencing of the lights allows the free flow of traffic on Howes Lane for most of the time and so stationary vehicles at the signals would only affect visibility for short periods. Moreover, the Council do not contest the appellant's claim that the proposal would generate a small number of trips. In light of these factors, I am satisfied the signalised junction's effect on visibility would not meaningfully prejudice highway safety.

13. The road incident data fails to demonstrate that the design of Howes Lane has been the cause of accidents and it does not indicate that the proposed access would increase any risk. Forward visibility for drivers on the highway is good and despite the signalised junction's effects on traffic flows, the evidence indicates human error has been the primary reason for accidents in the past.
14. For the above reasons, I conclude the proposal would have an acceptable effect on highway safety having regard to the visibility from the proposed access. In these respects, it would accord with LP policy ESD15 which, amongst other things, seeks to deliver safe places to live.

### **Conditions**

15. I have considered the conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for precision reasons and to avoid unnecessary pre-commencement conditions.
16. To ensure the development is carried out in accordance with the submissions, I impose a condition that refers to the appeal drawings. To ensure a satisfactory appearance, conditions are included that relate to external materials and landscaping. In the interests of highway safety, conditions are required on the provision of parking and turning areas as well as visibility splays.

### **Conclusion**

17. In light of the above, I find the proposal would comply with development plan policies and there are no factors that justify refusing planning permission. Therefore, I conclude that the appeal should succeed.

*Jonathan Edwards*

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: S.875-00b, S.875-01f, S.875-02b, S.875-03c, S.875-04B, S.875-05a, S.875-07 and S.875-08c.
- 3) No development above slab level shall commence until details of materials and finishes to be used in the external walls and roof of the dwelling hereby permitted have been submitted to and approved in writing by the local

planning authority. The development shall be carried out in accordance with the approved details.

- 4) No development above slab level shall commence until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include:-
  - a. details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment),
  - b. details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation.

The approved scheme shall be implemented by the end of the first planting season following the first occupation of the development.

- 5) No development above slab level shall commence until details (including construction, layout, surfacing and drainage) of any footpaths, parking and manoeuvring areas and details of any roadways or hardstanding have been submitted to and approved in writing by the local planning authority. the parking and manoeuvring areas as shown on the approved plans are provided in accordance with the approved details and thereafter, they shall be retained unobstructed except for the parking and manoeuvring of vehicles.
- 6) The dwelling hereby permitted shall not be first occupied until details of visibility splays to either side of the access have been submitted to and approved in writing by the local planning authority. The details shall be shown on a scaled drawing and indicate splays from a point at least 2.4 metres back from the edge of the carriageway along the centre line of the access and measured from and along the near edge of the carriageway. The dwelling hereby permitted shall not be first occupied until the approved splays have been provided and no features in excess of 0.6 metres above the adjacent carriageway shall be placed or allowed to grow in the resultant triangular areas.
- 7) The dwelling hereby permitted shall not be first occupied until pedestrian visibility splays of at least 2 metres x 2 metres are provided on each side of the vehicular access. These measurements shall be taken from and along the highway boundary. No features in excess of 0.6 metres above the adjacent pavement shall be placed or allowed to grow in the resultant triangular areas.