
Appeal Decision

Site visit made on 4 January 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/Y3940/D/21/3276828

Sunrise, Hindon Road, Teffont, Salisbury, Wiltshire SP3 5QU

- 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 and Mrs J Bladen against the decision of Wiltshire Council.
 - The application Ref 20/04714/FUL, dated 9 June 2020, was refused by notice dated 24 March 2021.
 - The development proposed is described as access improvements to form vehicle access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

The nature of the proposal

2. The appellants assert that the Council misunderstood the proposal, and that its assessment was consequently flawed. As this is partly held to relate to the description of development provided on the application form, the appellants have requested that this should be changed for the purposes of this appeal. The dispute revolves around whether or not a 'vehicle access' already exists, and the extent of the works requiring planning permission.
3. Prior to 2020, the dwelling at Sunrise was accessed by a narrow sloping footpath with small pedestrian gate set over a concrete step. Photos indicate that this emerged somewhat blindly onto Hindon Road. Widening was allowed at appeal in 2018 (the previous appeal), and the layout was carried forward in a subsequently approved scheme for a replacement dwelling in 2019 (the previous permission). There have been no further permissions authorising modification of the access.
4. It was previously common ground that the access served only a pedestrian use. This was also the basis upon which the previous appeal was assessed and allowed, albeit no restriction on future use of the access was imposed. The Council now accepts evidence that a motorcycle occasionally used the access for a brief period during the 1960s and 1970s, and also more recently. Unlike cars, the compact nature of motorcycles means that they can be driven or wheeled along narrow accesses otherwise suited only for pedestrian use.
5. Whether or not a sporadic history of occasionally pushing or driving a motorcycle along the access thus allows it to be described as a vehicle access, is ultimately less critical in this case than the physical limitations upon use imposed by the access itself. Indeed, even if use of the access by motorcycles

can be held to provide a lawful basis for unrestricted use by other types of vehicle, the nature, layout and dimensions of the access as recorded prior to 2020, and as permitted by the previous appeal and permission, would not have realistically allowed its use by cars. Nor has any evidence been provided which clearly demonstrates the contrary.

6. Though the appellants state that the access should be considered on the basis of its original 1930s layout, I have not been provided with any definitive indication of what this was. The only evidence presented is the step, which is no longer in place. This might have corresponded to the width of a gate which might in turn have had a bearing on the width of the access beyond. However, as neither theory has been confirmed by separate evidence, each remains conjecture. My findings above are therefore unaltered.
7. The access as it currently exists does not match the details shown on the plans approved in relation to the previous appeal and permission. Whilst works to its west side have been only partly implemented, the excavated profile of the bank appears to differ from that approved. A wall and section of the bank on the east side of the access has otherwise been removed, thus widening it.
8. The appellants claim that this widening was permitted development, and have submitted a legal opinion which both supports this assertion and in turn argues that much of the rest of the appeal scheme could be likewise undertaken. The analysis rests upon an understanding that a car 'can' access and egress the property. As I have established above however, based on the evidence before me this was not the case in relation to the access as it previously existed and would not have been the case in relation to the access as shown on the previously approved plans. As such I can again attach little weight to the appellants' argument.
9. It is not otherwise within the remit of this appeal to formally determine whether the works already undertaken or proposed required or require planning permission. The appropriate means by which to establish lawfulness would be for the appellants to make applications to the local planning authority under Sections 191 or 192 of the Act as applicable, in relation to which there is a separate right of appeal.
10. Whilst the works undertaken to date have helped to inform my assessment, I have assessed the scheme as set out on the proposed plan and with reference to the plans approved in relation to the previous appeal and permission. This is because the latter provide a reference point whose lawfulness is not subject of any dispute or uncertainty.
11. In summary, I consider that the proposal subject of this appeal can be simply understood as being to modify the access in such a way as to allow its use by cars, thus enabling parking and turning within the site. This would give rise to a change in the way in which the access is used, and the Council's concerns clearly relate to the effects of such change. That and the above being so, I do not share the appellants' view that the Council misunderstood the proposal or that a modification of the description of development is required.

Other applications

12. The appellants have submitted details of a recently granted certificate of lawfulness which confirms commencement of the previous permission. The

appellants have raised concerns over the way in which the Council interpreted the evidence submitted in relation to the application, and the wording it has used on the certificate. However, it again lies beyond the scope of this appeal to address these matters. As noted above, and acknowledged by the appellants, a separate right of appeal exists in relation to the certificate.

Costs

13. An application for costs was made by Mr and Mrs J Bladen against Wiltshire Council. This application is the subject of a separate Decision.

Main Issues

14. The main issues are:

- the effects of the development on highways safety; and
- whether the development would preserve or enhance the character or appearance of Teffont Magna and Evias Conservation Area (the Conservation Area).

Reasons

Highways

15. As noted above, Sunrise is accessed off Hindon Road, which is classified as the B3089. In the vicinity of the site the road is reasonably narrow and heavily enclosed by banks and vegetation either side. The speed limit is 30mph, and evidence indicates that whilst vehicles generally travel around this speed when passing the site, slightly higher speeds are recorded for vehicles travelling downhill from the west. As is typical of roads within rural locations, there is no streetlighting or footway.
16. On level ground Manual for Street (MfS) indicates that visibility splays of 43 metres should be provided in relation to roads with a 30mph speed limit. The appellants however accept that visibility towards the west of the access would be no more than 15 metres, and even then, based on a minimum setback of 2 metres measured off centre. As this would require careful driver positioning and some protrusion into the carriageway, this very limited field of view could not be achieved without risk. The latter would be increased when additionally taking into account the effects of the gradient on the speed of deceleration, and the very limited visibility of the access from the west. The shortfall in visibility would be significant, and the associated risk of collision between vehicles travelling downhill, and a car leaving the access to travel in either direction, would be high. The fact that the access would see a modest level of use would not make it any safer.
17. The standards set out in MfS are not statutory, but in representing best practice as established at a national level, they are generally applied in the interests of public safety. Scope for flexibility nonetheless exists based on evidence. In this case however, given the evidence set before me, and my findings above, I share the Council's view that a relaxation of standards would not be appropriate.
18. Drivers of cars exiting the access would additionally have an obstructed view of pedestrians approaching from the east along the north side of the road. Such general pedestrian use of Hindon Road can be anticipated given the village

edge location, and the fact that public footpaths can be accessed a short distance to the west. Such use however remains unquantified in this case. This additional risk of collision would compound the issues identified above. That being so, I attach significant weight to the overall risk that would arise from the scheme in relation to highway safety.

19. No record of accidents within the vicinity of the site has been set before me. But even if no accidents have occurred, such data is not wholly relevant to my assessment above given that the access has not been used by cars in the past.
20. The installation of a collision warning system has been proposed. The provider of the system states that it is in no way designed to replace the driver's decision-making processes, or to give an instruction to enter the highway. Given the significant shortfall in visibility from the access, the likelihood is however that the system would be used in this way. This would place heavy reliance upon its proper maintenance and function, and upon any users of the access both exercising, and being able to exercise, rigorous safety procedures as a fallback. The scope for error or failure would appear high. Insofar as the system is designed to detect oncoming vehicles, it appears that it would not remove the risk of collision with pedestrians. As such, the system would offer no certainty that the risks involved in use of the access by cars would be eliminated.
21. A Unilateral Undertaking (UU) intended to secure the installation of the system has been submitted. Though signed, the UU is not dated, and the obligation within it is vaguely constructed insofar as the 'land' on which the system would be installed is not defined, and there is no indication of when it would be installed. I thus consider the UU to be both lacking soundness and unlikely to be effective. Though a condition could be imposed instead, in view of my findings above, this would not overcome my concerns in relation to risk.
22. A wide range of claimed highways benefits have been advanced in support of the scheme. First is in relation to pedestrian safety. Here a key objective of the scheme is to remove the risk involved in walking between car(s) parked elsewhere in the village and the site. Though this appears to have been achieved without any incident in the past, walking along Hindon Road clearly does entail some risk to safety, and this risk would be addressed. The scale of benefit would however be limited by the fact that occupants of the site might still continue to walk along Hindon Road for other reasons, such as to access the rest of the village and public footpaths.
23. Insofar as broader pedestrian use of Hindon Road is concerned, the access could be used as a refuge. However, the same would be true in relation to the access approved by the previous appeal and permission. In this regard the scheme would offer no distinct benefit to weigh against the harm that would arise in relation to broader pedestrian use of Hindon Road. In view of both this and my findings above I attach limited overall weight to the claimed benefits in relation to pedestrian safety.
24. The appellants state that weight should be attached to improved safety for motorcyclists. Aside from the scant and occasional history of use of the access by motorcycles, how and why the proposed works would make the access any safer is unclear. If this is held to relate to the installation of a collision warning system, such a system could presumably be installed in isolation. Whilst my findings above indicate that such a system would not in any case make use of

the access safe, this would be without the introduction of additional risks related to use of the access by cars. I therefore attach very limited weight to the benefits claimed in relation to motorcycle safety.

25. Insofar as it is claimed that parking elsewhere in the village gives rise to a collision risk that would be avoided by parking on site, the claim is lacking in any supporting evidence. It does not therefore attract weight in favour of the scheme.
26. It is additionally claimed that the access would provide improved safety in relation to deliveries, dropping off, and that other vehicles could use it for pulling in. In the first instance this assumes that the access would remain available for all such uses in the future, which cannot be guaranteed.
27. Though a vehicle parked in the road outside the site could give rise to a potential collision risk, it would nonetheless be visible to oncoming drivers in both directions across a distance sufficient to minimise the likelihood. A vehicle manoeuvring out of the access having pulled in parallel to the road, would however be much less visible, particularly from the west. Moreover, depending on orientation and vehicle type, visibility from such a vehicle toward the west could be even more severely restricted than considered above. The risk generated by pulling in would therefore far outweigh the risk that this would address.
28. The appellants state that the development would provide for the needs of occupants and visitors with mobility impairments. With reference to the Public Sector Equality Duty contained in the Equality Act 2010 (EA 2010), I have therefore had due regard under Section 149 of the EA 2010 to the requirement to take steps to meet the needs of persons who share a protected characteristic. The EA 2010 defines disability as one such characteristic. The scheme would meet these needs by providing direct access into the site by cars thus avoiding the walk from elsewhere. Dismissal of the appeal would fail to meet these needs. That said, the needs are hypothetical insofar as they are not presented as relating to any specific person. Even were I to consider otherwise, in view of my findings above, the needs would not be met safely. Providing for such needs does not therefore in this case provide a basis to consider that the development would be acceptable, or lend any further weight in its favour.
29. Taking the claimed highways benefits of the scheme together, I am satisfied that these would not outweigh the risks to highway safety in this case.
30. The appellants have sought to support their case with a number of detailed statistical calculations which aim to quantify relative risk. It is unclear whether these calculations are based on any recognised methodology. It is however apparent that they are based on a significant number of assumptions which are incapable of full verification based on the evidence before me. These calculations do not therefore alter my findings above.
31. The appellants have sought to explore the possibility of a footpath being provided along Hindon Road. The fact that they have so far been unsuccessful in this endeavour does not however indicate that the proposed development should therefore be considered acceptable.
32. My attention has been drawn to other accesses with limited visibility within the broader area, including one approved during the 1980s at the telephone

exchange towards the west. However, whether or not it or other accesses have been used without past recorded incident, I see no reason why the risks associated with their use should be held to justify the risks that would both specifically and distinctly would arise in relation to the proposed development.

33. Insofar as appeal decisions said to provide 'precedents' have been referenced, the sites as too the circumstances are not directly comparable to the current case. These appeals do not therefore alter my findings as set out above, and as necessary I have considered the scheme on its own merits.
34. My attention has also been drawn to planning application 18/03674/FUL, which relates to a site elsewhere. Based on the information provided, its direct relevance is unclear.
35. I have taken into account paragraph 111 of the National Planning Policy Framework (the Framework) which makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. I am satisfied that an unacceptable impact would arise in this instance.
36. For the reasons set out above I conclude that the development would have an unacceptable effect on highways safety. This would conflict with Core Policy 60 of the Wiltshire Core Strategy 2015 (the CS) insofar as this seeks to support and encourage safe movement of people through Wiltshire.

Conservation area

37. The site is located within the Conservation Area which is a designated heritage asset. Whilst statute sets out the desirability of preserving or enhancing the character or appearance of conservation areas, paragraph 199 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets.
38. Insofar as it is relevant to this appeal, the significance of the Conservation Area resides in the historic layout of the 2 small adjoining settlements that it covers, and the collection and interrelationship of historic buildings and spaces that it contains. Within this context Hindon Road forms a key interface between Teffont Magna and its landscape setting, within which the heavy enclosure of the lane by a combination of banks, stone walls and vegetation makes a positive contribution to its physical and visual character.
39. The Inspector in the previous appeal found that the impact of works to widen the access in that case would be neutral in their effect. This was based on the retention of the footpath and step as pre-existing, and a finding that the substantially enclosed nature of the highway would not be lost despite cutting away the bank. As established above, the scheme, as carried forward by the previous permission, has only been partly implemented, and does not currently appear as shown on the approved plans.
40. Whether or not the development would entail or has entailed excavation of less material than was approved in relation to the development subject of the previous appeal, the cumulative effect would be more significant. In simple point of fact, the access would occupy a greater amount of space. In terms of design this would be emphasised by the more formal and uniform character of the access, as underlined by the band of setts laid within the pulling off space. Taking the above points together, the erosive effect of the development on the

enclosed nature of Hindon Road would be greater, and likely to be far more clearly perceived than within the previous appeal scheme.

41. The additional visual effects of installing a collision warning system are unclear given that the height at which the sensors and lights would be mounted has not been fully specified, and is not shown on the proposed plan. It is however reasonable to assume that the installation of pole mounted sensor and traffic light equipment close to the road would make a further contribution to the erosive effects identified above.
42. In view of my findings above, and notwithstanding the localised nature of impact, the development would have a modestly adverse effect on the character and appearance of the Conservation Area considered as a whole. The development would as such fail to achieve preservation. The harm caused to the significance of the Conservation Area would be less than substantial, and such harm attracts considerable importance and weight. In accordance with paragraph 202 of the Framework it is necessary to weigh this harm against the public benefits of the scheme.
43. Insofar as public benefits have been principally advanced in relation to highways safety, I have considered these in detail above, and found that the overall effect in relation to highway safety would be negative. That being so, they cannot logically attract weight.
44. As the development would enable parking by cars on site, they would no longer need to be parked elsewhere. It is however unclear where parking currently occurs, and thus it is not possible to establish whether or not this is in fact harmful. Insofar as the scheme would enable other vehicles to pull in rather than park outside the site, the difference in visual effect would be at best neutral. I cannot therefore attach any weight to these considerations.
45. The appellants claim that the development would address a neglected frontage. However, the current condition of the frontage appears to be almost entirely a product of works recently undertaken by the appellants, including the partial implementation of works previously granted planning permission. As this does not form a legitimate basis to consider that the appeal scheme would provide an enhancement, it does not attract weight.
46. Insofar as benefits are claimed in relation to design, including the use of local materials and installation of a wall and setts, I have again found above that the overall effects would be negative. As such these claimed benefits again attract no weight.
47. It is claimed that the development would reduce runoff onto Hindon Road. However, insofar as the development would itself be likely to give rise to runoff, the provision of drainage would simply address its effects. I have not otherwise been provided with any detailed evidence in relation to drainage, or any indication of where the linear drain shown on the plan would discharge. Once again, this is not therefore a consideration which attracts weight.
48. Parking on site would allow charging of electric vehicles, whereas parking elsewhere presumably would not. I have however been provided with no evidence that the required infrastructure would be provided on site, that the appellants currently do make use of electric vehicles, or that they would if the

appeal was allowed. Given such uncertainty I can attach no weight to the claimed environmental benefits.

49. Implementation of the scheme would generate some additional work for contractors and suppliers, but the scale of benefits to the broader economy would be negligible. Accordingly, this consideration attracts negligible weight. As such, the public benefits of the scheme would not outweigh the harm that it would cause.
50. For the reasons outlined above I conclude that the development would fail to preserve or enhance the character or appearance of the Conservation Area. It would therefore conflict with Core Policy 58 of the CS which seeks to secure development that protects, conserves and where possible enhances the historic environment, and Core Policy 57 of the CS which more broadly seeks to secure development that is complementary to the locality.

Other Matters

51. The site is located within the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB), within which there is a duty to have regard to the purpose of conserving and enhancing natural beauty. Paragraph 176 of the Framework further states that great weight should be given to conserving and enhancing landscape and scenic beauty. In assessing the scheme the Council reached no conclusion in relation to its effects.
52. As considered above, Hindon Road forms an interface between the village and the surrounding landscape. In the vicinity of the site it is however characterised by its enclosed nature, which limits any broader exposure. The effects identified above would otherwise be primarily perceived in relation to the village rather than the broader landscape. That being so the scheme would not have an adverse effect on the AONB at large.

Conclusion

53. For the reasons set out above the effects of the development in relation to highways safety and the Conservation Area would be unacceptable, giving rise to conflict with the development plan. There are no other considerations, including the EA 2010, which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR