



Appeal Decision

Site visit made on 7 March 2022

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2022

Appeal Ref: APP/G1630/W/21/3281004

Greenacres, Main Road, Minsterworth, Gloucester, GL2 8JG

- 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 Michael Lawless against the decision of Tewkesbury Borough Council.
 - The application Ref 17/01268/FUL, dated 29 December 2017, was refused by notice dated 16 March 2021.
 - The development proposed is for the change of use from ancillary equestrian to residential and erection of 7 dwellings.
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Decision

1. The appeal is dismissed.

Main Issue

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

Reasons

3. The proposal is for seven houses on what is equestrian land off Watery Lane. Near the site access is the junction between Watery Lane and the A48. Whilst Watery Lane is a typical rural road, the A48 is a 50mph busy highway. The main issue with this appeal concerns whether there are highway safety risks with increased traffic using this junction, emerging onto the A48, as a result of the proposed houses.
4. Firstly, it is very likely that the proposed development would result in an increase of traffic using this junction, over and above the current level with the site as equestrian land. The appellant estimates the traffic generated by the development and using this junction with the A48 to be approximately 40 per day. This is not a high number of additional trips with this generated from a modest sized proposed development, but it would be a clear increase in usage of the Watery Lane/A48 junction.
5. The junction itself is shown to have sufficiently good levels of visibility for drivers emerging from Watery Lane when looking to the northeast (view to the right). However, as was clear from my site visit, the view to the southwest (to the left) gives a lesser amount of clear visibility of oncoming traffic from this direction along the A48. Given the 50mph speed limit and the speed surveys which show averages of approximately 50mph, the Council calculate that the vision splay from Watery Lane to the southwest along the A48 should be 2.4m x 150m.

6. The appellant has provided plans to show a vision splay to the southwest of 2.4m x 113m. However, this is to the centreline of the A48 rather than the nearside highway edge. This is explained as being due to the solid double white lines down the middle of the road which should restrict overtaking. However, as pointed out by the Council, there can be circumstances where vehicles can safely cross the white lines, such as to pass a stationary or slow vehicle, or overtake a pedal bike, for example. Whilst such occurrences may be rare, there is no physical barrier to stop vehicles crossing the white line. The Council estimate that if the vision splay was calculated to the near side highway edge, then the vision distance available would be more like 100m.
7. Even with the distance of 113m this is, as the appellant sets out, approximately 37m short of what should be provided given traffic speeds. Whilst there may be some scope for a lesser vision splay to be provided, it is my view that what is shown to be currently possible is substandard and would result in a risk to highway safety, considering the additional traffic that would be likely to use the Watery Lane/A48 junction as a result of the proposed development.
8. The forward visibility is to a good level approaching the Watery Lane junction from the A48 (from either direction). This would help with avoiding collisions as approaching drivers could see vehicles emerging from Watery Lane for example. However, it is my view that this factor is not sufficient to overcome the significant lack of available vision for drivers when emerging from Watery Lane from the proposed development. It does help to mitigate the risk of collision, but it does not overcome the highway safety risks that results from increased traffic from the proposed development having substandard vision available when driving onto the A48. To my mind, even with the forward visibility along the A48 in this area, the junction is still substandard in terms of visibility and results in below standard highway safety levels.
9. I am aware of the development approved at the former Apple Tree Inn site for housing. However, due to the specific circumstances of that case there was no necessity for visibility improvements at the Watery Lane/A48 junction. There is also an application for more dwellings along Watery Lane on a site that comes under the same ownership as the Apple Tree Inn site which may require visibility improvements at this junction with the A48. However, there is considerable uncertainty remaining with this and it may require an amendment to the approved scheme at the former Apple Tree Inn. It therefore cannot be relied upon for these other developments to provide the vision splays necessary for the development proposed under this appeal. These matters are not under the direct control of the appellant and are not within the appeal site area. In these circumstances it would not be suitable for a condition to require the vision splays as necessary as it is far from certain this can be achieved.
10. The area around this junction has not seen incidents and accidents that indicates that it is dangerous. I am also aware that there could have been relatively high levels of traffic at this junction when the Apple Tree Inn was open, though this is some years ago now. However, a lack of accidents and collisions in the past does not necessarily mean that a junction is safe, especially when additional traffic would be using the junction as a result of a proposed development. With regards the Apple Tree Inn, there is a residential development approved at this site which will in time result in traffic using the Watery Lane/A48 junction, but the proposed seven houses would further add to this and therefore increase the chance of traffic collisions for example.

11. I am aware of other developments in the area and have some details of these. Whilst the appellant states that there have been inconsistencies with the advice from the Council/Highways Officers and in their decision making with planning applications, I have considered this appeal based on its merits and circumstances. It is my view with this appeal the proposed development would intensify the use of a junction where there is substandard visibility.
12. I am aware of the recent road closures and the diversions along Watery Lane to the junction with the A48. Whilst this may not have resulted in issues or incidents, this was a short term occurrence and is very different from the proposals for seven permanent dwellings and the effect this would have over the long term in increasing traffic at the junction with the A48.
13. Overall, whilst taking into account issues such as the modest scale of development, the fact that the junction of the A48 and Watery Lane is existing, and the levels of forward visibility along the A48, I conclude that the proposal would have an unacceptable impact to highway safety for the reasons set out above, thereby being in conflict with Policy INF1 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 (December 2017). This policy requires that development provide safe access onto the highway network amongst other things. Furthermore, the National Planning Policy Framework (the Framework) under paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. It is my conclusion that the impact to highway safety as a result of the proposed houses would be unacceptable. There are no conditions that could reasonably be imposed that would overcome this issue satisfactorily.

Planning Balance

14. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply, although the level of shortfall is not agreed by the parties. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.
15. The proposal would provide dwellings towards the local housing supply in this 'Service Village'. There would be economic benefits from the construction of the dwellings, and this could be considered an efficient use of the site, amongst other potential benefits.
16. However, the substandard highway safety would be a significant adverse impact. Even if the housing land supply shortfall was as low as stated by the appellant, when assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

Mr S Rennie

INSPECTOR