



Appeal Decision

Site visit made on 21 February 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2023

Appeal Ref: APP/J1860/W/22/3305536

Land off Berrington Road, Tenbury Wells, Worcester WR15 8EN

- 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 Shaun Drinkwater against the decision of Malvern Hills District Council.
 - The application Ref 21/02014/CU, dated 28 October 2021, was refused by notice dated 28 February 2022.
 - The development proposed is for the use of land for the siting of two shepherd huts for holiday accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for the use of land for the siting of two shepherd huts for holiday accommodation at land off Berrington Road, Tenbury Wells WR15 8EN in accordance with the application, Ref 21/02014/CU, dated 28 October 2021, subject to the schedule of conditions at the end of this decision.

Preliminary Matters

2. Following determination of the planning application by the Council, the appellant has prepared a speed survey and visibility plan. I have paid regard to both documents in consideration of the appeal, and I note that the Council have commented on the speed survey. Having regard to the Wheatcroft Principles I am satisfied that no interested parties have been prejudiced by my approach.

Main Issue

3. The main issue is the effect of the proposal upon highway safety.

Reasons

4. The appeal site comprises part of a field in agricultural use located at the western end of the village of Tenbury Wells. The point of access onto the road is formed of an existing track with gates set back into the field within the 30mph zone approach into the village. Berrington Road is relatively straight either side of the access but views along the road are partially obscured by a hedge that extends along the roadside.
5. The appellant has undertaken a speed survey which indicates that the recorded 85 percentile approach speeds exceed the prevailing speed limit in both directions. On the basis of the speed survey a visibility splay of 2.4m x 57.7m to the east and a splay of 2.4m x 50.3m to the west would be required.

6. The National Planning Policy Framework (the Framework), at paragraph 55, states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of planning conditions or planning obligations. The Highways Authority have confirmed that suitable visibility can be achieved in both directions if works to the hedge in the form of removal and/or realignment can be secured and thereafter retained.
7. I have, therefore, considered whether the use of planning conditions could achieve the required visibility splay. Based on the evidence before me I am satisfied that the condition suggested by the Highways Authority would be satisfactory and would overcome the concerns regarding visibility along the road.
8. The proposed holiday accommodation is unlikely to be occupied all year round and its small-scale nature and the associated turnover of visitors and car movements is unlikely to result in significant levels of traffic.
9. Whilst the access is positioned more or less opposite an existing driveway it is not an inevitable conclusion that this arrangement would result in highway harm. As such, it is a matter of planning judgement based on the merits of the scheme. Despite the narrowness of the road, visitors that do not have knowledge of the road layout or area are likely to drive more carefully and consciously reducing the potential for conflict with passing vehicles when entering or leaving the site. Furthermore, there is no substantive evidence of road traffic incidents along this section of Berrington Road indicating that the road is not unsafe.
10. Local residents submit that there have been a number of near missies along the road. However, there is no substantive information in respect of the nature of them or the time frame over which they occurred. Consequently, I give limited weight to this.
11. Paragraph 111 of the Framework advises that development proposals should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative effects on the road network would be severe. The Highways Authority acknowledge that the proposal would not breach this threshold and I give weight to this.
12. I therefore conclude that as the visibility splay can be secured by condition the proposal would not adversely affect highway safety. As such, there would be no conflict with Policies SWDP 4 and SWDP 21 of the South Worcestershire Development Plan (2017) which, amongst other things, require vehicular traffic from developments to be able to access the highway safely. It would also accord with the Framework which, amongst other things, seeks to ensure a safe and suitable access to the site can be achieved for all users and to minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Other Matters

13. Whilst representations have been received in respect of waste the appellant has submitted a Water Management Statement which outlines the foul and surface water strategy. I am satisfied that the details are adequate, and the proposed development would not increase the risk of flooding locally.

14. References to alleged planning breaches and the further expansion of the site have been made. However, it is incumbent upon me to assess the merits of the proposal before me in respect of its impact upon highway safety. These are not matters for me as part of this appeal and I give them negligible weight in coming to my decision.
15. Taking into consideration the number and size of the shepherd huts proposed and that they are unlikely to be occupied all year round I am satisfied that the proposal would not cause demonstrable harm to the living conditions of nearby occupiers in respect of noise, disturbance or light spill. Conditions have been imposed limiting the number of huts on site and for external lighting details have been imposed to ensure a satisfactory development.
16. There is no credible evidence to indicate that the proposed development would harm biodiversity. A condition has been imposed for it to be carried out in accordance with the submitted Ecological Mitigation and Enhancement Strategy.

Conditions

17. In addition to the standard time limit condition for implementation; it is necessary to specify the relevant drawings and define the development and its occupation as this provides certainty.
18. Whilst the appellant has provided a plan showing a visibility splay no details have been provided in respect of the removal and/or realignment of the hedge. Therefore, I have imposed a condition for a satisfactory visibility splay to be provided. In addition, in the interests of highway safety, I have imposed a condition in relation to the surfacing of the access.
19. Conditions in relation to hedge planting and details of external lighting have been imposed to ensure satisfactory appearance of the development.
20. In the interests of sustainability conditions requiring the development to be carried out in accordance with the Ecological Mitigation and Enhancement Strategy and Water Management Statement have been imposed.
21. The Council has suggested a condition for tree protection measures. However, given tree cover on the site is limited such a condition is not necessary.

Conclusion

22. For the reasons set out above the appeal succeeds.

B Thandi

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: Location Plan Drawing Number 344/21/PL001; Proposed Site Plan Drawing Number 344/21/PL101; Existing Site Plan Drawing Number 344/21/PL002 and Visibility Splays Drawing Number FCL0051-03.
- 3) No external lighting shall be installed and brought into use until details of its nature and luminance have first been submitted to and approved in writing, and any external lighting shall then be installed and used in accordance with the approved details only.
- 4) The development shall not be occupied until visibility splays are provided from a point of 1.05m above carriageway level at the centre of the access to the application site and 2.4 metres back from the near side edge of the adjoining carriageway, (measured perpendicularly), for a distance of 57.7metres to the east; and 50.3m to the west measured along the nearside edge of the adjoining carriageway, to an offset distance of 0.6m from the edge of the carriageway. Nothing shall be planted, erected and/or allowed to grow on the triangular area of land so formed which would obstruct the visibility described above.
- 5) The development hereby approved shall not be occupied until the first 5 metres of the access into the development, measured from the edge of the carriageway, has been surfaced in a bound material.
- 6) The proposed hedgerow shown on Proposed Site Plan Drawing Number 344/21/PL001 shall be planted before the development is first brought into use and retained thereafter for the lifetime of the development. If any part of the hedgerow dies, is removed or become seriously damaged or diseased it shall be replaced in the next planting season with others of similar size and species.
- 7) Before the development is brought into use, details set out in the submitted Water Management Statement shall be fully implemented and retained thereafter.
- 8) No more than 2 units of holiday accommodation shall be sited on the land at any time.
- 9) The development hereby permitted shall be carried out in accordance with the recommendations set out in the Ecological Mitigation and Enhancement Strategy dated October 2021.
- 10) The owners/operators of the holiday units hereby approved shall maintain an up-to-date register of the names of all visitors of the units. This register shall be made available within 1 calendar month of a written request by the local planning authority.

- 11) The holiday accommodation hereby approved shall be occupied for holiday purposes only and shall not be occupied as a person or persons' sole, or main place of residence.
- 12) The shepherd hut units to be sited on the land shall comply with the definition of a caravan set down in Section 29(1) of the Caravan Sites and Control of Development Act 1960, Section 13(1) of the Caravan Sites Act 1968 and the Social Landlords (Permissible Additional Purposes) (England) Order 2006 (Definition of Caravan) (Amendment)(England) Order 2006.