
Appeal Decision

Site visit made on 15 May 2023

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2023

Appeal Ref: APP/W1850/W/22/3313663

Summer Court Cottage, Lyonshall, Herefordshire HR5 3JU

- 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 Kinsey Hern (FC Jones & Co) against the decision of Herefordshire Council.
 - The application Ref 222432, dated 21 July 2022, was refused by notice dated 28 November 2022.
 - The development proposed is described as a 'proposed new access road to the dwelling. The current access has very poor visibility and will be closed off with a new hedge'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that in response to Council suggestions, the appellant has produced a drawing illustrating an alternative siting and design and set out various issues with this alternative scheme. Notwithstanding this, the amended drawing have not been the subject of consultation, and in my view, they materially amend the proposal. Therefore, in accordance with the principles established by the Courts in *Wheatcroft*¹, were I to accept them then that may prejudice the interests of interested parties. Consequently, I have determined the appeal on the basis of the scheme considered by the Council.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. The appeal property, a two storey detached dwelling, is located in an isolated position within the open countryside, along a rural lane and surrounded by open fields. The property is set back from the road and is served by an existing access at its front, cut into a roadside hedge way. The surrounding highway is pocketed by similar access points to residential properties and agricultural access points to the surrounding fields.
5. I observed on site that the existing access is substandard and allows for limited visibility, given the hedgerow. There is a curve to the road some distance to the north and south which further limits visibility, as does a modest dip in the height of the road to the south.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

6. The proposal seeks to infill this existing access and replace it with a new access to the south. This new access, given its width and improved sightlines would be a significant improvement in terms of highway safety.
7. However, the new access would extend through a field next to the appeal property around the rear of the property into the next field. It would involve substantial hardstanding in two fields currently free from development. Along with its large width, this would result in an urbanising visual impact upon the landscape that would be far in excess of the existing access and what would be expected from a single dwelling. It would appear at odds with the nearby modest rural access areas. The appellant has provided photographs of access points along the same highway, however these either do not serve only a single dwelling or, in the case of Summer Court, appears not as wide and serves a dwelling set substantially back from the highway, thereby requiring a lengthy driveway. As such, these cases are not directly comparable to the proposal in front of me.
8. Whilst the access could also be used to access the field directly from the highway, there is substantive evidence before me that this is necessary for agricultural purposes. Notwithstanding this, an agricultural access would not require such length of hardstanding.
9. I acknowledge that the proposal would result in improved highway safety, however, notwithstanding the alternative scheme discussed above, I have not seen conclusive evidence that this would not be possible without such an extent of development. The loss of hedgerow required to provide the access would be mitigated and compensated for by new planting which would provide some ecological improvements, and were I minded to allow the appeal, a condition to secure such benefits, would ensure the proposal complies with the biodiversity and green infrastructure protection goals of Policies LD2 and LD3 of the Herefordshire Local Plan Core Strategy 2011 – 2031 (2015) (CS) and Policy LE2 of the Lyonshall Neighbourhood Development Plan 2019 -2031 (2019) (NDP).
10. However, these limited benefits do not outweigh the harm to the character and appearance of the surrounding area, which is a matter to which I attribute great importance, in accordance with the National Planning Policy Framework. As such, I conclude that the proposal is contrary to CS Policies SS6 and LD1 and NDP Policy LE1 of the which seek to protect the character of the landscape.

Conclusion

11. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations that indicate the development should be determined other than in accordance with it. Therefore, the appeal is dismissed.

B Phillips

INSPECTOR