



Appeal Decision

Site visit made on 30 April 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th May 2024

Appeal Ref: APP/V3310/W/23/3332985

Land to the South of 229A Berrow Road, Burnham on Sea TA8 2JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Peter Davies against the decision of Somerset Council.
 - The application Ref is 05/22/00017.
 - The development proposed is described on the application form as 'Residential development for up to 5 detached dwellings with all matters reserved'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application form indicates that the proposal was submitted in outline with all matters reserved for future consideration. I have treated all submitted drawings as illustrative only.
3. The planning application was originally submitted to Sedgemoor District Council and I note that the appellant has referred to the Council on the appeal form. However, the Council became part of Somerset Council in April 2023 and therefore the Decision Notice was issued by Somerset Council. I have therefore referred to this in my banner heading above. For the avoidance of doubt, the Sedgemoor Local Plan 2011-2032, adopted February 2019 (LP) remains the adopted development plan and I have determined the appeal accordingly.

Main Issue

4. The main issue is this appeal is whether the site would be suitable for residential development with regard to highway safety.

Reasons

5. Access to the appeal site would be from an existing unadopted lane from Berrow Road. I understand that it currently provides vehicular access to a number of properties including the maintenance premises for the golf course. It is also a public right of way¹ providing pedestrian access to the dunes.
6. At the point where the lane joins Berrow Road, the submitted plans indicate that visibility of 45m in each direction at a distance of 2.4m back from the road edge can be achieved. The Council are concerned that an existing lamp post sited to the south east of the access would obstruct the view of drivers exiting

¹ Footpath AX 32/14

onto Berrow Road, particularly in respect of pedestrians waiting to use the zebra crossing.

7. Manual for Streets (MfS)² states that occasional obstacles which are not large enough to fully obscure a whole vehicle or a pedestrian will not have a significant impact on road safety. Even if obscuring were to occur, it would only be momentarily. Vehicles exiting the site in the direction of the zebra crossing would do so at a low speed. Any momentary obscuring would quickly become apparent, allowing sufficient time for the driver to stop at the crossing.
8. The Council have also expressed concern that vehicles leaving the convenience store parking area would obstruct visibility from the access in a north westerly direction. I saw vehicles exiting the parking area during my site visit. However, vehicles are not static for a long period, and they do not impede the view of oncoming traffic approaching from the north west to a harmful extent.
9. I therefore conclude that visibility at the point of access with Berrow Road is adequate for the proposed development.
10. The submitted topographical survey indicates that the width of the lane varies along its length with the narrowest point within the first 6m being 4.6m wide. The Council say that on the ground, the narrowest point measures 4.2m. This, they say is too narrow for two cars to pass. The Council refer to Highways Standing Advice guidance, which says that an access serving two or more properties should be a minimum of 5m wide. However, I have not been provided with a copy of any such guidance.
11. There is no dispute between the parties that MfS indicates that a carriageway width of 4.1m would enable two cars to pass³. However, the widths indicated are not recommendations and it is clear that carriageway widths should be appropriate for the particular context and uses of the street.
12. During my site visit, which can only represent a snapshot in time, I observed four cars, a tractor and trailer and two pedestrians using the access. I saw that two properties have doors opening directly onto the lane and that the available carriageway width was reduced by the presence of pot plants and gas boxes outside those properties. I also saw that the lane was demarked on the opposite side by a brick wall which exceeded wing mirror height. In practice therefore, cars using the access would be mindful of the restrictions at either side of the lane.
13. In my view, whilst it may be possible for two cars to pass, it would not be particularly easy, and drivers would be hesitant to do so for fear of damaging their vehicle. This would also not account for any pedestrians using the public right of way or exiting the properties which open straight onto the access at the same time.
14. I therefore find that vehicles turning in from Berrow Road and encountering another vehicle, would have to wait on Berrow Road or may even attempt additional manoeuvres in the public highway such as reversing. This would impede the free flow of traffic.

² Paragraph 7.8.6 of Manual for Streets

³ Figure 7.1 of Manual for Streets

15. As well as being located between a zebra crossing to the south and the convenience store car park to the north, the access is also located opposite the Brent Road junction. The submitted evidence indicates that there have been three personal injury collisions within the most recent five-year period in the vicinity. Details provided indicate that two of the incidents involved a car colliding with a user of the footway near the access. I acknowledge that they are not attributable to the proposed access but nevertheless, this indicates to me that this is a busy location with conflicting traffic movements in all directions.
16. I therefore find that increased use of the access resulting from the appeal proposal would impede the free flow of traffic on Berrow Road and increase the risk of conflict between vulnerable road users and vehicles. This would be prejudicial to highway safety and contrary to Policy D14 of the LP which seeks to provide safe access for all users and prevent highway safety being compromised.

Other Considerations

17. My attention has been drawn to the planning permission for the erection of a convenience store and three new dwellings⁴ on the adjacent site ('adjacent permission'). I note that the Highway Authority recommended refusal to that proposal. However, from the committee minutes I understand that the Council took into account the vehicle movements associated with the former public house on the site and found that three additional dwellings would not increase vehicle movements significantly, whilst the widening of some stretches of the lane would provide some betterment. However, the proposal before me relates to a further five dwellings and for the reasons set out above, I have found that this would be harmful to highway safety. I therefore give the Council's consideration of the adjacent permission limited weight.
18. The appellant indicates that the increase in traffic using the access arising from the appeal scheme would represent a 4.4% increase over the expected traffic generation in relation to the adjacent permission. However, the majority of those trips would be associated with the convenience store and would not use the access the subject of this appeal. In terms of the use of the access, there would be an increase from one vehicle movement in both the AM and PM peak hour associated with the adjacent permission to two and three respectively with the appeal proposal. I acknowledge that this is not a substantial increase in traffic but notwithstanding this, I have set out my concerns about the current inadequacies of the access and the harm to highway safety arising from an increase in vehicles using the access.
19. With regards to the erection of a new greenkeepers facility⁵, it appears that this was a revised scheme to one approved in June 2021⁶ which I do not have details of. I therefore cannot be certain about the circumstances surrounding its approval and I give this limited weight.
20. There is a secondary access point onto Berrow Road to the north. However, I cannot be certain whether vehicles attracted to the appeal site would use that

⁴ LPA Ref: 05/15/00014 - Erection of retail unit, three dwellings, formation of vehicular access and associated parking, cycle and refuse storage.

⁵ LPA Ref: 11/22/00042 - Demolition of existing buildings, with the erection of a new greenkeeper's facility, workshop/ garage and associated works (revised scheme).

⁶ LPA Ref: 11/21/00011 - Granted 26 June 2021

access. It is some distance from the appeal site and would appear less convenient than using the short length of the lane from the appeal site to Berrow Road. I therefore give this limited weight.

21. The appellant contends that the access should be viewed as a shared surface street. The Council say that it does not meet the requirements for a shared surface within the 'Somerset Streets In Residential Design Guidance Note'. I have not been provided with a copy of this document. However, MfS refers to shared surface streets⁷ and indicates that these are likely to work well in short lengths or cul-de-sacs and that they are often constructed from pavements to help emphasise their difference from conventional streets. However, the access lane is not short⁸, a cul-de-sac or surfaced in pavements. Therefore, I give this limited weight.
22. The appeal proposal would allow access for refuse vehicles to turn in the site. I do not know whether they already service other properties in the lane or whether this would be another vehicle using the lane which has limited width at the junction with Berrow Lane. Even if it is the former and would therefore provide a turning facility for the vehicle, the weight I give this as a benefit would only be modest given that the frequency of use is likely to be once a week at best.
23. Economic benefits would arise from the construction and occupation of five dwellings. There would also be benefits to the housing supply in a location which has good access to a range of services and facilities. However, the appellant does not dispute that the Council has a five-year housing land supply, so I attach only modest weight to this.
24. The proposal has the support of the parish council and a number of interested parties and I give this some weight. A lack of harm to landscape character and biodiversity interests are neutral in the planning balance.
25. Taken together, there would be modest benefits arising from the appeal proposal.

Planning Balance

26. The appellant says that Policy D14 of the LP is not relevant as it refers to development proposals which have a 'significant transport impact'. As a result, they say, there are no relevant development plan policies and Paragraph 11. d) of the National Planning Policy Framework (the Framework) is engaged. This requires granting permission 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.
27. It is clear that the Policy is seeking to ensure that development provides inclusive, safe and convenient access for all users, that the nature and volume of expected traffic from development would not compromise highway safety and that safe access can be provided of adequate standard. This chimes with Paragraphs 114, 115 and 116 of the Framework.

⁷ Paragraphs 7.2.8 – 7.2.15 inclusive

⁸ Paragraph 4.4 of the Transport Statement by TPA dated June 2023 indicates that the secondary access is approximately 100m to the north

28. Even if I agreed with the appellant, I have found that the appeal proposal would result in vehicles waiting on the highway or manoeuvring within the highway to access the site. This would impede the free flow of traffic. Access to the appeal site is in a busy location which already has conflicting traffic movements and is close to a zebra crossing. The appeal proposal would increase the risk of conflict between vulnerable road users and vehicles. The proposal would be prejudicial to highway safety, and this would significantly and demonstrably outweigh the modest benefits I have set out above.

Other Matters

29. I have considered other matters raised by interested parties including, but not limited to, access rights, loss of the hedge, maintenance of the lane and overlooking but given that I have identified harm in respect of the main issues, these are not matters on which my decision turns.

Conclusion

30. The proposed development is contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

Alison Fish

INSPECTOR