The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Penderfyniad ar yr Apêl

Gwrandawiad a gynhaliwyd ar 17/09/13
Ymweliad â safle a wnaed ar 17/09/13

gan Gareth A. Rennie BSc(Hons) DipTP

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12 Tachwedd 2013

Appeal Decision

Hearing held on 17/09/13
Site visit made on 17/09/13

by Gareth A. Rennie BSc(Hons) DipTP

an Inspector appointed by the Welsh Ministers

Date: 12 November 2013

Appeal Ref: APP/H6955/A/13/2198827
Site address: 40 Waverley Crescent, Rossett, Wrexham, LL12 0EG

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Bill Cleaver and Miss Valerie Holden against the decision of Wrexham County Borough Council.
- The application Ref ROS P/2013/0136, dated 20 February 2013, was refused by notice dated 7 May 2013.
- The application sought planning permission for the erection of a two bedroom bungalow and garage and vehicular access without complying with conditions attached to planning permission Ref ROS P/2011/0415, dated 14 October 2011.
- The conditions in dispute are No's 2, 7, 8, 9, 10, 11 and 12 which state that: '2 – the development shall only be carried out in strict accordance with the details shown on the approved drawing(s) 01/A-3 and A-2 and as contained within the application documentation. 7 – No part of the development shall commence until a scheme detailing the construction of the following has been submitted to and approved in writing by the local planning authority : 1) Detailed layout, design, drainage and construction of the proposed new footway/carriageway; the scheme as is approved shall be fully implemented prior to first use of the development. 8 – The vehicular parking and turning areas as shown on approved drawing No 01/A-3 shall be fully laid out, surfaced and drained prior to first use of the development. These areas shall thereafter be permanently retained and kept free of any obstruction, and made available solely fro the parking and turning of vehicles at all times. 9 – The existing vehicular access as shown on approved plan No. 01/A-3 shall be permanently closed up prior to first use of the new vehicular access hereby approved. 10 – Prior to first use of the vehicular access hereby approved. The access shall be surfaced with hard bound materials (e.g. bituminous macadam) for a minimum distance of 5 metres behind the adjoining highway. 11 – There shall be no gates or other means of enclosure across the access point within 5 metres of the highway boundary. 12 – Prior to first use of the development hereby approved a pedestrian visibility splay shall be established measured from the centre line of the vehicular access 2.4 metres back from the back edge of the footway to points 3.3 metres either side measured along the back edge of the footway. Within these splays there shall be no obstruction in excess of 0.6 metres in height above the level of the adjoining highway. The splays shall thereafter be permanently retained clear of any obstruction to visibility.'
- The reasons given for the conditions are: '2 – To ensure that the development fully complies with the appropriate policies and standards. 7 & 9 – In the interests of Highway Safety. 8 – To provide for the parking and turning of vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interests of traffic

safety. 10 – To ensure that no deleterious material is carried on to the highway, in the interests of highway safety. 11 – In the interests of the free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access. 12 - To ensure that adequate visibility is provided at the proposed point of access to the highway.

Decision

1. The appeal is allowed and planning permission is granted for erection of a detached two bedroomed bungalow and garage and vehicular access at land to the rear of 40 Waverley Crescent, Rossett, Wrexham, LL12 0EG in accordance with the application Ref ROS P/2013/0136 dated 20 February 2013, without compliance with condition numbers 2, 7, 8, 9, 10, 11 and 12 previously imposed on planning permission Ref ROS/P/2011/0415 dated 14 October 2011 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new conditions: .

    1) Development shall not begin until details of the junction between the proposed access and the highway, and the access road have been submitted to and approved in writing by the local planning authority; and the building shall not be occupied until that junction and road have been constructed in accordance with the approved details.

    2) The dwelling hereby approved shall not be occupied until space has been laid out within the site for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

    3) The car spaces to be provided and turning areas shall be kept available for the parking and manoeuvring of motor vehicles at all times. The car spaces shall be used solely for the benefit of the occupants of the dwelling of which it forms part and their visitors and for no other purpose and permanently retained as such thereafter.

Main Issue

2. The main issue in this case is the effect of the proposal on road safety.

Reasons

3. No 40 Waverley Crescent is located on the northern side of the Crescent and lies adjacent to a lane which provides vehicular access from it to a number of garages. This access also provides a route for pedestrians to the Darland High School to the north.

4. The development in this case is the erection of a detached dwelling within the rear garden of No 40. The existing property has a parking area to the front and direct access onto Waverley Crescent. The conditions in dispute relate to the construction of a second access onto the appeal site, the stopping up of the existing access, and improvements to the lane and the construction of a pedestrian footway.

5. The appellant's contend that the proposed access is unnecessary, would be unnecessarily costly and that a satisfactory access can be achieved at the front of the existing property.

6. The proposed access to the front of the property would be achieved by the widening of the existing access. The Local Planning Authority (LPA) argue that this would make

the existing access less defined and lead to a lack of distinction between safe pedestrian and vehicle areas. Whilst the proposed access would result in a large area of dropped kerb, I consider that this would be in keeping with the pattern of vehicular access generally in the Crescent and would be legible to both pedestrians and car drivers.

7. The existing access would be brought about 0.5 metres closer to the junction of the unadopted lane with Waverley Crescent. Nevertheless, I consider that this would not result in confusion between the two junctions. The lane appears reasonably well used though not subject to frequent vehicular traffic; and the pedestrian use of the lane would be subject to peak periods at the beginning and end of the school day. It is a well defined and legible route as a result and has clear separation with the access to No. 40.

8. Taking these factors together I consider that the impact of the proposed alternative access would not have a significant impact on road safety. Indeed the permitted access could be considered to lead to greater confusion and potential conflict between vehicles and pedestrians, notwithstanding the improvements that would be made. It would also introduce significant additional vehicular traffic onto the lane. The proposed alternative access would maintain the current relationship between cars and people on the Crescent and the adjacent lane. The permitted access onto the lane would be unnecessary in this context.

9. It is finely balanced but I consider that the proposed access would not result in significant risk to road safety and the potential improvements to the lane do not outweigh the potential additional complications and conflict the permitted access could introduce. The proposed access does not, therefore, conflict with policy GDP1 of the Wrexham Unitary Development Plan which seeks to ensure safe and convenient pedestrian and vehicular access to and from development sites.

10. The appellants have also drawn my attention to the additional costs that would be incurred as a result of securing a right of way along the lane. I agree that developers should be expected to bear the costs of any necessary highway improvements, though the costs in this case do seem onerous and disproportionate to the size of the development. This adds some weight to the appellants' case but I consider that it is not decisive.

11. Overall, I consider that the disputed conditions; and consequently the access arrangements and road improvements that they seek to achieve; are unnecessary and unnecessarily onerous. A satisfactory access can be gained at the front of the property without significant disruption to the relationship between vehicles and pedestrians on the site and without significant additional risk to road safety.

12. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions but retaining the relevant non-disputed conditions from the previous permission, and include new conditions requiring the submission of details of the proposed alternative access, parking and turning areas in the interests of road safety.

Gareth A. Rennie

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Glyn Roberts	Appellant's Agent
Mr Cleaver	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Janet Sotherby	Senior planning officer
Peter Dashworth	Highways Engineer

INTERESTED PERSONS:

Janet Suckeley	41 Waverley Crescent, Rossett

DOCUMENTS

1 Letter of notification

2 Letter form Mr Newby, 35 Waverley Crescent, Rossett, LL12 0EG