

**Town and Country Planning Act 1990
Section 78 Appeal**

Appeal at Tintern, Pistyll Hill, Marford, LL12 8LE.

COUNCIL'S STATEMENT OF CASE

PINS Ref: APP/H6955/A/19/3227169

LPA Ref: P/2019/0061

1 STATEMENT OF CASE

- 1.1 The Council will primarily rely on the Case Officer report appended to this document for the appeal. The Council request that the appeal be dismissed for the reasons set out on the planning decision notice.

2 RESPONSE TO THE APPELLANTS APPEAL STATEMENT

- 2.1 In response to some of the statements made in the appellants appeal statement, the Council comments below.

Reason for Refusal 1

- 2.2 The appellant refers to paragraphs 2.6.1 and 2.6.2 of Manual for Streets 2 (MfS) on page 2 of the Appeal Statement. These paragraphs refer to the way in which application of guidance can inhibit innovative design.
- 2.3 These paragraphs are not considered to be relevant in relation to the first reason for refusal on the decision notice given the proposed shared access is not considered to represent a particularly innovative design.
- 2.4 The existing visibility splays at the site access with Pistyll Hill are 2.4m x 11m (east) and 2.4m x 9m (west), measured to the centreline of the carriageway. In his response, the Highway Officer confirms that visibility can be permitted to the centreline of the road, given the restricted carriageway width. Please see attached the Highway Authority's consultation response at Appendix 2.
- 2.5 The required visibility splays at the site access are 2.4m x 25m in both directions, measured to the centreline of the carriageway. The visibility splays proposed by the appellant are 2.4m x 15.5m (east) and 2.4m x 16.9m (west), measured to the centreline of the carriageway.
- 2.6 The appellant is proposing a 4.5m improvement in the 'y' distance to the east and a 7.9m improvement in the 'y' distance to the west, which the appellant states is a 'dramatic increase'.
- 2.7 The 'y' distance to the east falls short of the required 25m by 9.5m and the 'y' distance to the west falls short of the required 25m by 8.1m. The proposed splays which the appellant is intending to provide are an increase in less than half the existing situation.
- 2.8 The shortfall is considered to be significant particularly in the context that the access is intended to serve a further one dwelling. If the additional dwelling proposed was 4 bed (as set out in the appellants Appeal Statement), in accordance with Local Planning Guidance Note 16 – Parking Standards, this has the potential to generate an increase in three vehicles using the access on a daily basis (on the basis that for a 4 bed dwelling, LPG 16 requires maximum parking provision for 3 vehicles). Please see attached LPG 16 at Appendix 3.

- 2.9 Notwithstanding the fact that the application is made in outline with all matters reserved, it has not been demonstrated that a safe access into the site with the required visibility splays can be achieved.
- 2.10 The last paragraph on page 2 of the Appellants Appeal Statement refers to the fact that the amount of hedge to be lost by the proposal would only amount to 6.4m which is not considered to be substantial. However this is because the visibility splays which are being proposed are a significant shortfall to what is required, which inevitably would result in less hedgerow removal than what would be required by virtue of achieving a 'y' distance of 25m in both directions.
- 2.11 Therefore, an additional section of hedge either side of the site access would require removal, lowering or setting back in order to achieve the required splays, which has the potential to adversely impact on visual amenities of the area given the hedgerow running along the site frontage of the property appears to be well established and defined. Any hedgerow lowered to a height of 1m is likely would not survive.
- 2.12 Given the above, this is considered would result in an alteration to the site entrance and would change the character and appearance of the area, thereby having the potential to adversely impact on visual amenities of the area.
- 2.13 On the basis of the above as well as the considerations set out in the officer report, reason for refusal 1 on the decision notice still applies.

Reason for Refusal 2

- 2.14 Please refer to paragraphs 6 – 12 of the 'Access and Car Parking' section of the officer report for further detail in relation to reason for refusal 2. The reason for refusal still stands.

3 OTHER MATTERS

- 3.1 The Officer Report states the Tree Officer as objecting to the application. This is an error and is made in reference to the Site Layout Plan submitted under the previous application P/2018/0599.
- 3.2 The Case Officer has verbally consulted with the Tree Officer who confirms that no objection is raised to the application, subject to conditions, which have been added in to Appendix 4 - Suggested Conditions.

4 SUGGESTED CONDITIONS

- 4.1 Should the appeal be allowed, a list of suggested conditions is attached at Appendix 4.

