
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 10/05/21

gan Iwan Lloyd, BA BTP MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 1/6/21

Appeal Decision

Site visit made on 10/05/21

by Iwan Lloyd, BA BTP MRTPI

an Inspector appointed by the Welsh Ministers

Date: 1/6/21

Appeal Ref: APP/H6955/D/21/3272790

Site address: The Stables, Road from Sontley Bridge to B5426 Gyfelia Crossroads, Sontley, Wrexham, LL13 0YW

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.
 - The appeal is made by Mr Jack Bowyer-Jones against the decision of Wrexham County Borough Council.
 - The application Ref: MAR P/2021/0039 dated 4 May 2020, was refused by notice dated 15 March 2021.
 - The development proposed is widen and retain access to front of property.
-

Decision

1. The appeal is dismissed.

Procedural matters

2. The appellant contends that planning permission is not required for widening the access point where an access previously existed. Whilst the appellant accepts that the access as it now appears is slightly wider than the existing access, he maintains that planning permission is only needed if the widening involved engineering operations. Whether or not the widening of the access requires planning permission is a fact and degree assessment. The works of formation and laying out of an access that incorporate alterations to a fence may involve development, but the works should be considered as a whole, based on it involving a building as well as an engineering operation.
 3. However, the question of whether planning permission is required does not affect the validity of this planning appeal. A planning application has been submitted and the appeal must be considered on its individual merits. It is not within the remit of this appeal under section 78 of the Act to formally determine whether the development taken place requires planning permission as raised by the appellant. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 191 of the Act as amended.
 4. As indicated the development has already taken place and I have considered the appeal development as built. The description of development on the planning application refers to the reasons why the development ought to be granted and
-

therefore I have used the description given on the Council's decision which coincides with the appeal form. I do not consider that this would prejudice any party, but I have omitted the 'in retrospect' description as this is not an act of development.

Main Issue

5. The main issue is the effect of the development on highway safety.

Reasons

6. The appeal access gate as widened is located to the north of the shared access point created for the stable block conversion, planning permission P/2017/0482 at Smithy Cottage. The appeal access gate is set-back just under 3m from the edge of the carriageway. Sontley Road is a single carriageway highway with a verge. The shared access comprises a splayed brick wall set behind the verge with the driveway built across the highway verge to allow for visibility as a vehicle enters the road. The gates for the shared access are shown to be set-back some 5m from the highway.
7. Travelling south towards Gyfelia and heading towards the appeal access gate there is a left turn in the road with a reasonably wide verge on the left-hand side. The appeal access gate is unsighted at this point because of the alignment of the gate coinciding with the hedgerow and trees. Closer to the appeal gate the verge widens and then narrows slightly due to the hedge and tree. The hedge has been cut-back to some extent and the verge grass has been laid-over with a light covering of stone. In my view once a driver turns the corner the position of the vehicle would be upon the appeal access.
8. Traveling north towards Wrexham the appeal access is concealed from view by the brick wall of the shared access and the right turn in the road. In my view, the appeal access would be concealed until the driver is positioned close to it.
9. Following on from these observations I am persuaded by the Council's submission that visibility is near to 2.4m by 30m in both directions to the nearside carriageway edge. Whilst this road has a 60mph speed limit vehicle's travel in estimated speeds of 30mph. Although, the appellant argues that this is less in an around 25mph this is not supported by actual traffic speed evidence. Even if the appellant's assertion is accurate allowing for bonnet length for vehicles travelling at 25mph requires a sight stopping distance of 33m. This is still more than the Council's estimate of visibility of 30m in both directions.
10. The Council's applied standard of 2.4m by 43m is preferred in this instance taken from Manual for Streets 1 (MfS). This aligns with Table B of Annex B of Planning Policy Wales Technical Advice Note 18: Transport (TAN 18). However, in this case traffic speeds are not known and a standard of 2.4m by 90m should be applied for a speed of 30mph which includes an allowance for motorists travelling at 10kph above the speed limit as set out in Table A of Annex B of TAN 18. Taking a measured approach, I favour the requirement for 43m in both directions with a set-back measurement of 2.4m. The visibility at this appeal site is well below the required standard.
11. The appellant contends that the visibility splay sight line should be taken to the centre of the carriageway given it is a single width highway and that it should not be measured to the near-side carriageway edge. However, the circumstances in which this is applied relates to a central splitter island and in my view the character of the road does not lend itself to this relaxation of the standard.

12. The appellant argues that a minor arm distance of 2m should be applied which would mean that a vehicle would protrude onto the highway. In this instance the ability of a driver to see this overhang would be too short a distance to stop or manoeuvre around given the bend in the road and the narrow width of the highway. I do not consider that 2m would be an appropriate minor arm distance for the location of the appeal access having regard to the guidance contained in TAN 18 and MfS 2.
13. I note that the appellant suggests that there would be limited use of the access by commercial lorries delivering fuel and the emptying of the bio disc plant. It is maintained that this would not lead to an increased use of the access nor would lead to danger to road users. It is suggested that the access would be strictly limited to occasional use. I also note that larger vehicles are unable to make the turn into the shared access point. The appellant has suggested a planning condition to overcome these concerns.
14. Although I note the issue with turning radius, I have not been shown that the appeal access is more accessible than the shared access point for larger vehicles. In any event the appeal access gate would not allow a lorry to pull off the highway which is next to a bend in the road. The suggested condition is not enforceable in my view describing that it should only be used by large vehicles. Once the access is authorised it can be used by any vehicle and a condition of this form would not meet the tests of imposing reasonable, necessary, and enforceable planning conditions. As an authorised access its use cannot be regulated. The appeal access use would be increased over that of a gated access to a field, and I am not persuaded that the appeal access would not lead to an increase in the likelihood of danger to road users.
15. I have taken into account all matters in favour of allowing this appeal, but these do not outweigh my conclusion that the development harms highway safety. The position of the appeal access allows insufficient visibility for drivers of vehicles to safely enter the highway or to allow sufficient sight stopping distance for drivers on the carriageway to react to drivers of vehicles entering the highway from the appeal access. The appeal access gate does not allow sufficient clearance for vehicles to pull off the road and the position of the appeal access is near to a bend in the road which restricts visibility.
16. I consider that the materiality of the claimed lawfulness of the development is given little weight at this time until it is conclusively presumed under a lawful use or development certificate and would therefore not outweigh the harm that has been identified in the determination of the main issue in this appeal. However, my conclusion in relation to this matter is in relation to this appeal only and does not prejudice any future application for a lawful development certificate.
17. I consider that the development conflicts with Policy GDP1(d) of the Wrexham Unitary Development Plan which requires all new development should ensure safe and convenient vehicular access to and from development sites.
18. I conclude that the development would harm highway safety.
19. I have considered the duty to improve the economic, social, environmental, and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (the WBFG Act). In reaching my decision, I have taken into account the ways of working set out at section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out in section 8 of the WBFG Act.

20. I conclude that the appeal should be dismissed.

Iwan Lloyd

INSPECTOR