



Appeal Decision

Site visit made on 18 October 2022

by **C Rose BA (Hons) BTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18th November 2022.

Appeal Ref: APP/W1145/W/22/3301274

Land South of 1 North Town, Petrockstowe, Devon EX20 3HD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant technical details consent.
 - The appeal is made by Mr Grahame Phillips against the decision of Torridge District Council.
 - The application Ref 1/1276/2021/FUL, dated 9 November 2021, sought consent pursuant to permission in principle Ref 1/0699/2020/PIP, granted on 28 June 2021
 - The application was refused by notice dated 18 March 2022.
 - The development proposed is approval of technical details for a single dwelling and associated works following grant of permission in principle.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for Technical Details Consent following the grant of Permission in Principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle has established that the location, land use, and amount of development is suitable in principle. The Technical Details Consent that is the subject of this appeal can consider the remaining detailed matters but cannot reopen what has been agreed at the Permission in Principle stage. I have determined this appeal on that basis.
3. I have taken the description of development as set out above from the application form as neither party has provided written confirmation that a revised description has been agreed.

Main Issue

4. The main issue is the effect of the proposed vehicular access on highway safety with particular regard to visibility.

Reasons

5. The new dwelling would be accessed off Rectory Rise which is a 'C' classified public highway, close to a crossroad junction. At my site visit I noted that Rectory Rise is fairly narrow with a lack of footpaths and subject to a 30 mile per hour speed limit. Given the nature of the road, the variety of vehicles I witnessed were travelling close to the speed limit and near to the centre of the road in both directions.

6. The National Planning Policy Framework 2021 (The Framework) sets out at paragraph 110 that applications for development should ensure that safe and suitable access can be achieved for all users. In this instance, visibility splays are necessary to ensure the safety of users of Rectory Rise including those exiting the proposed access. There is no dispute between the parties that following the recommendations in Manual for Streets (MfS) and Manual for Streets 2 (MfS2), visibility from the proposed access should be 43 metres in both directions with an 'x' distance of 2.4 metres.
7. I note that the appellant, Council and Local Highway Authority agree that adequate visibility can be achieved to the right when exiting the site.
8. However, I saw on my site visit that the required visibility splay at the proposed access to the left runs across a considerable part of the front of the neighbouring property, Ferringhi, on land that is not within the appellant's ownership.
9. Whilst I note the appellant's case that the neighbour is unlikely to block visibility and that permitted development rights would prevent certain structures from being constructed within the visibility splay, there is no certainty that the visibility splay would remain free from obstruction. If this were to occur, drivers exiting the access would have limited views of users of the highway to the left, which as well as vehicles could include vulnerable road users including horse riders, pedestrians, and wheelchair users. Similarly, other road users would have limited advance warning of vehicles exiting the access. In light of this and given the lack of control over all of the land required to maintain a suitable visibility splay, a condition ensuring that the visibility splay be free from obstruction would not meet the tests for conditions (as set out at paragraph 57 of the Framework) as it would not be enforceable.
10. The appellant suggests, as indicated in their statement, that the proposed access would provide an opportunity for significant safety enhancement over the existing arrangements by providing improved visibility from the adjoining driveway of the neighbouring property and for other road users. It is also suggested that there are many situations where adjoining driveways share visibility splays across neighbouring land. However, whilst this may be the case, I have limited information in relation to the history of the adjoining parking area or other situations. These matters do not provide justification for a poorly designed access in this case. Furthermore, any benefit from improved visibility to the right does not outweigh the harm to highway safety that I have identified by reason of the inadequate provision of visibility to the left when exiting the site.
11. In conclusion, the proposal would cause harm to highway safety due to inadequate visibility at the proposed vehicular access, in conflict with Policies ST10 and DM05 of the North Devon and Torridge Local Plan 2011-2031 October 2018 and the guidance in The Framework which, amongst other things, require that development ensures safe and well designed vehicular access and egress for all users.
12. The Council have referred to Policy DM06 of the North Devon and Torridge Local Plan 2011-2031 in their officer report. However, I have not assessed the proposal against this policy as it relates to the provision of parking.

Conclusion

13. For the reasons given above I conclude that the proposal conflicts with the development plan taken as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, appeal should be dismissed.

C Rose

INSPECTOR