
Appeal Decision

Site visit made on 25 October 2016

by Rory Cridland LLB (Hons)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 November 2016

Appeal Ref: APP/R3325/W/16/3152198

Two Oaks, Broadway, Broadway Road, Ilminster, TA19 9RE

- 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 & Mrs S C Annings & Ms C Wakely & Mr I Pearce against the decision of South Somerset District Council.
 - The application Ref 15/04773/FUL, dated 21 October 2015, was refused by notice dated 16 December 2016.
 - The development proposed is one new 4 bedroom detached dwelling & one new 3 bedroom detached dwelling with associated garaging.
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Decision

1. The appeal is allowed and planning permission is granted for one new 4 bedroom detached dwelling & one new 3 bedroom detached dwelling with associated garaging at Two Oaks, Broadway, Broadway Road, Ilminster, TA19 9RE in accordance with the terms of the application, Ref 15/04773/FUL, dated 21 October 2015 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
AWB-02 Rev A; AWB-03; AWB-04; AWB-05; AWB-06; AWB-07 Rev A; AWB-08 Rev B; AWB-09; AWB-10; AWB-11; AWB-12; AWB-13; AWB-14; AWB-15; AWB-16.
 - 3) No development above damp proof course level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

Preliminary matter

2. The Council's second reason for refusal relates to the absence of a legal agreement in respect of affordable housing contributions. However, within its written evidence the Council has confirmed that it no longer wishes to maintain this refusal reason following the decision of the Court of Appeal in the *West Berkshire*¹ case. I have no reason to disagree with the Council's approach in respect of this matter and have determined the appeal on that basis.

¹ R (West Berkshire District Council and Reading Borough Council) v. Secretary of State for Communities and Local Government [2016] EWCA Civ 441.

3. The appellant has submitted a scheme of highways alterations as part of the appeal which would involve, amongst other things, the building out of the access into the adopted highway (Drawing Ref: AJK5). This would materially alter the access arrangements originally proposed. Having considered the principles set down in the case of *Wheatcroft*², I consider that determining the appeal with regard to that scheme would result in those who should have been consulted being deprived of the opportunity to comment. I have therefore not taken it into account in reaching my conclusions below.

Main Issue

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

Reasons

5. The appeal site is located to the rear of properties on Broadway Road, a 30mph single carriageway which passes through the centre of the village and provides access to a number of residential properties. The site is accessed via an existing tarmac access way which serves two residential dwellings as well as providing access to Yatford Farm. The proposal would involve the erection of 2 new dwellings, access to which would be over the existing track.
6. Policy TA5 of the South Somerset Local Plan (2006-2028)³ (LP) requires new development to address its own transport implications by, amongst other things, securing inclusive, safe and convenient access. It also seeks to ensure that new development does not compromise the safety and function of the local or strategic road network. Similarly, Paragraph 32 of the National Planning Policy Framework ("the Framework") indicates that decision makers should take account of whether safe and suitable access to the site can be achieved for all people.
7. The Council is concerned that visibility at the junction with Broadway Road is so impaired that an increase in traffic movements at this junction would result in severe harm to highway safety. These concerns are echoed by both local residents and the Parish Council all of whom have referred to the Highways Development Control Standing Advice for Planning Applications ("the Standing Advice") in support of their position. Para 3.1 of that document states that where accesses and junctions are to be formed, the Manual for Streets is the appropriate guidance for visibility splays. However, in this case the proposal seeks to utilise the existing access and the application form indicates that no new junction is to be formed. As such, I do not consider Para 3.1 of the Standing Advice to be applicable. Instead, I consider the central question to be whether visibility at the junction is such that the additional vehicular movements associated with the development would pose a significant risk to highway safety.
8. During my site visit I drove down both Broadway Road and the access track itself. Although visibility from the track is restricted in both directions, I noted that it was possible to clearly see vehicles approaching from the west. Similarly, while visibility looking east is restricted by the boundary wall and hedge to the front of neighbouring Stofield House, I noted that there was

² *Bernard Wheatcroft Ltd v Secretary of State for the Environment* (JPL, 1982)

³ Adopted March 2015

- sufficient visibility to enable a driver to exit the junction with only a reasonable degree of caution.
9. Likewise, the access road itself is clearly visible when travelling in both directions along Broadway Road, whose residential nature and numerous residential accesses alerts drivers that they need to exercise caution. Furthermore, in contrast to other nearby accesses, the existing access which would serve the proposed development is highly visible. I am therefore satisfied that a reasonably observant driver travelling along this section of road would be alert to the likelihood of vehicles pulling out and would proceed with an appropriate degree of caution.
 10. Nevertheless, the proposal would inevitably result in an increase in traffic using the junction. However, during my visit I observed no vehicles using the access track and only light traffic along the main road. While this may not be indicative of the traffic levels during peak times, or of those which may result from the proposed development, it was nevertheless clear that vehicular use of the track was not significantly oversubscribed and that traffic movements along Broadway road were generally low. This accords with the traffic survey provided by the appellant and I consider the limited number of vehicular movements associated with the proposal would not place any significant additional pressure on the highway network.
 11. Furthermore, I note that the access road already serves a number of other properties as well accommodating agricultural vehicles associated with Yatford Farm. Cumulatively, these are likely to result in a greater number of vehicular movements to those of the proposed dwellings. I have been provided with no robust evidence, for example in the form of accident data, to indicate that this has resulted in any significant highway safety issues at the junction or more widely. As such, I do not consider the additional traffic movements which would result from the proposal would have any material impact on highway safety at the junction, either individually or cumulatively when taken with those of other users.
 12. Consequently, I find that the proposal would not compromise the safety and function of the local or strategic road network and, as such, find no conflict with LP Policy TA5. Likewise, I find that the proposal would not conflict with the guidance out in Paragraph 32 of the Framework which seeks to ensure that safe and suitable access to the site can be achieved for all people.

Other matters

13. I have had regard to the concerns expressed by local residents and the Parish Council. Those which relate to visibility at the junction have been taken into account in reaching my conclusions above. Furthermore, while I have noted the concerns expressed by local residents regarding parking congestion, in view of the levels of parking proposed, I do not consider that this the proposal would have any material impact on parking. I also note that it is open to the Council to seek to address any significant parking issues by other means. As such, I do not consider it provides sufficient grounds to refuse planning permission for the development proposed.
14. In respect of those which relate to any loss of privacy for neighbouring occupiers, I note that in view of the separation distances between the proposed dwellings and neighbouring properties, the Council has concluded that there

would be no significant levels of overlooking. I have seen nothing which would lead me to conclude otherwise. Similarly, there is no robust evidence which would indicate that the proposals would materially affect existing sewage infrastructure, flooding, or wildlife. As such, I do not consider that these provide sufficient grounds to refuse planning permission in this instance.

15. I note that there is a Grade II listed building located to the western side of the proposed access. However, the Council has concluded that in view of the lack of alterations to the access and the separation distance between it and the proposed dwellings, there would be no material impact on the significance of the heritage asset or its setting. I concur with that assessment and I am satisfied that both the heritage asset and its setting would be preserved.

Conditions

16. Neither party has provided a list of conditions which they consider appropriate in the event that the appeal were to be allowed. However, in addition to the standard commencement condition, I consider a condition specifying the approved plans as appropriate in the interests of certainty. I also note that the officer report raises concerns with some of the materials proposed. I therefore consider a condition requiring the submission and approval of further details to be appropriate in order to protect the character and appearance of the surrounding area.

Conclusion

17. For the reasons set out above, I conclude that the appeal should be allowed.

Rory Cridland

INSPECTOR