



Appeal Decision

Site visit made on 14 August 2014

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

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

Decision date: 18 September 2014

Appeal Ref: APP/R3325/A/14/2219798

Sheria Cottage, Whitfield Lane, South Petherton TA13 5DF

- 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 D C Banks against the decision of South Somerset District Council.
 - The application, Ref. 12/03954/FUL, dated 5 October 2012, was refused by notice dated 7 March 2014.
 - The development proposed is the erection of two detached dwellinghouses and two detached double garages and road improvement works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellinghouses and two detached double garages and road improvement works at Sheria Cottage, Whitfield Lane, South Petherton in accordance with the terms of the application, Ref. 12/03954/FUL, dated 5 October 2012, subject to the conditions in the attached schedule.

Main Issue

2. The main issue in the appeal is the effect of the proposed dwellings on the pedestrian and highway safety of Whitfield Lane, including the junction with Careys Hollow / Palmer Street.

Reasons

3. The appeal application has been refused for a single reason which states that the two additional dwellings proposed would result in the increased use of Whitfield Lane. Including its junction with Careys Hollow / Palmer Street, this is considered to be 'sub-standard and ill-suited' to safely accommodate the extra traffic that would be generated. As a result it is argued that the proposal would be prejudicial to pedestrian and highways safety contrary to saved Policy ST5 of the South Somerset Local Plan 2006 ('the Local Plan'). Criterion 5 of this policy requires development proposals to make provision for a satisfactory means of access into and within the site and ensure that traffic resulting from development can be accommodated on the local transport network.
 4. The decision to refuse permission was taken against the advice of the Council's officers who were mindful that the Somerset County Council as the Highway
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Authority has considered the application in considerable detail, including commissioning a Safety and Technical Audit of the proposed road widening, but have raised no objection in respect of the amended scheme. I must give substantial weight to this professional opinion. However I am also aware and take fully into account that the Parish Council and a number of local residents strongly oppose the development on a number of grounds, but particularly in respect of the effect on highway safety. I have considered all the evidence and views expressed, having had the benefit of observations made whilst walking between the allotments and Palmer Street at an accompanied site visit. I have also driven unaccompanied along that route and in both directions along Careys Hollow and Palmer Street.

5. In my view the safety issue arises mainly at two points: the junction of Whitfield Lane with Palmer Street / Careys Hollow ('the junction'), and the blind bend in Whitfield Lane ('the bend') more or less equidistant between the appeal site's access and the junction. The common denominator is that the sub-standard nature of both when compared with adopted highway design standards is such that they demand extreme caution from any reasonable driver.
6. At the junction there is to all intents and purposes no visibility to the left (westward) along Careys Hollow for vehicles exiting Whitfield Lane, with a driver having to use extreme caution to edge out into the main road up to the point where there is a line of sight past the wall of Long Acre, the corner property. In respect of the bend in Whitfield Lane there is minimal forward visibility for a driver in either direction in the single width road. However in both cases there is the ostensible paradox of the potential hazard being so obvious that the road is relatively safe, due to a combination of the extremely low vehicle speeds and the realisation of any reasonable driver that a 'safety first' approach is absolutely essential.
7. This is reflected by the Highway Authority's evidence that over the last 5 years no accidents have been recorded, despite the increase in traffic as a result the siting of the allotments in 2010 further along Whitfield Lane. I am aware of local residents referring to a number of 'incidents' and accidents but I am unable to give anecdotal information the same weight as official statistics.
8. The Highway Authority's view is that compared with the existing traffic along Whitfield Lane (a daily total estimated to be about 128 vehicles excluding for delivery and waste, which although challenged by some residents I consider reasonable), a further 16 or so daily vehicle movements from the proposed houses would not be so significant as to materially decrease highway safety and convenience and thereby preclude the appeal scheme. This effect is a matter of judgement as opposed to being able to be forecast with any degree of certainty on the basis of empirical evidence. However, bearing in mind that the County Highway Authority has a statutory responsibility relating to traffic flow and highway safety I am disinclined to set aside its view without comprehensive and convincing evidence to the contrary.
9. Furthermore, in assessing first hand the potential impact of this increase in vehicles on the junction, I saw on my visit that there is excellent visibility eastward along Careys Hollow so that the driver of any vehicle travelling in that direction at a speed commensurate with its single width would have a clear view

of the front of a vehicle as soon as it begins to emerge from behind the corner of Long Acre. In addition, either after this development or at some future stage, the Highway Authority has the options of repainting the faded 'SLOW' sign on the carriageway, the erection of one or more signs warning of encroaching vehicles and the introduction of traffic calming, if it considers such measures to be necessary in the interests of safety.

10. As regards the bend in Whitfield Lane, the appeal scheme includes the works necessary for its widening, as shown in the submitted plans. I take the view that this will increase inter-visibility between vehicles travelling in opposite directions, but not to the point where it would lull drivers into the false sense of security that is the cause of so many accidents. Furthermore, any increase in conflict between vehicles as a result of more traffic would be offset by the significant advantage of a wider carriageway at the bend.
11. The ability for vehicles to pass at this point would increase safety as it would reduce the existing necessity to reverse, which is an obvious hazard to walkers. For the same reason a two way flow would increase the convenience for drivers travelling both to and from the houses in the Lane and the allotments. The wider road would also increase the ability for walkers to take refuge from passing cars at the only point in the Lane where they are currently at risk of not being seen in sufficient time for a driver to slow down or stop.
12. Overall on the main issue, I conclude that the appeal proposal would not have an adverse effect on highway safety that would bring it into conflict with Local Plan Policy ST5 or with advice on transport in the National Planning Policy Framework 2012 ('the Framework'). Paragraph 32 of the latter requires development to have a safe and suitable access. Allowing for the context of the site being a part of South Petherton which has access roads that reflect its older buildings and rural character, I do not regard the impact as being one that would undermine this objective.
13. Paragraph 32 of the Framework also advises that development should only be prevented or refused on transport grounds '*where the residual cumulative impacts are severe*'. By definition any increase in traffic must increase the potential for accidents and congestion to some degree, but in this particular case I agree with the Highway Authority that the effect would fall short of this description. Although I note the comment of an objector that this part of the paragraph has been quoted out of context, this is neither my view nor the view of the Council and the Highway Authority.
14. I am also aware that an Inspector in an appeal in 1981 considered the junction unsuitable for more traffic, but do not consider that a decision over 30 years ago with at least some different circumstances and prevailing policies should carry significant weight. By the same token I recognise that because of their constraints, both Whitfield Lane and its junction with Careys Hollow / Palmer Street do have a limit to their capacity and decisions on any future proposals will need to be assessed on their individual merits.
15. Local residents have raised a variety of other objections to the scheme. However many of these, including the effect on the character and appearance of the area, residential amenity, ecology and drainage have been reported and considered as part of the officers' report. Although I have also taken them into

account, I have found no reasonable basis in respect of these matters to justify the withholding of permission. Moreover, the appeal site is located within the designated development limits for South Petherton where residential development is acceptable in principle under the saved policies of the Local Plan. In terms of its location the principle of two new houses is, for the same reason, also consistent with the principles and objectives of sustainable development in the Framework.

16. The Council has suggested a number of conditions if the appeal is allowed and subject to some minor modifications I consider that that these are both reasonable and necessary. A condition requiring the approved development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of proper planning. Conditions requiring the Council's approval of materials, hardstanding and boundaries, and the submission of a landscaping scheme will safeguard the character and appearance of the area.
17. Conditions in respect of the construction programme and details of highway works, including requiring the off-site work to be carried out before development on the site, are required in the interests of highway safety and residential amenity. Highway safety also supports a condition ensuring the retention of the parking and turning areas for their intended use. Finally a condition as regards the provision of surface water and foul drainage will avoid flooding and pollution.
18. I have noted from third party representations that it is considered there is some doubt whether the highway works fall within land owned by the Highway Authority. However the latter have checked their records and stated the works are within the adopted highway. If any other consents are required as a pre-requisite to the works these will be for the applicants to obtain under the relevant legislation, but I do not consider this to be a matter that needs to be addressed further in this Decision.

Conclusion

19. For the reasons stated above, the appeal is allowed subject to the conditions specified.

Martin Andrews

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this Decision;
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: SCNDHP1; SCNDHP2; SCNDHP3; SCSP1; SCSP3 Rev. 5; SCSP4 Rev. 5; SCSP5 Rev. 5; SCSP6 Rev 5; SCSP7 Rev 6A; SCSP8 Rev.6a; SCSP9 Rev.6;
- 3) No development hereby approved shall be carried out until particulars of the following have been submitted to and approved in writing by the Local Planning Authority: (i) details of materials (including the provision of samples where appropriate) to be used for the external walls and roofs; (ii) details of the recessing, materials and finish (including the provision of samples where appropriate) to be used for all new windows (including any rooflights) and doors; (iii) details of all hardstanding (including the access over the first 5m) and boundaries; (iv) details of the rainwater goods and eaves and fascia details and treatment.

All work shall be carried out in accordance with the approved details;

- 4) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation. The scheme of landscaping shall include the highways improvements at the bend to the north east of the site shown on Drawing No. SCSP8 Rev. 6a received 6/2/2014;
- 5) Before the development hereby permitted is commenced, details of the proposed highway works shown on Drawing Nos. SCSP3 Rev. 5 & SCSP4 Rev.5 received 19/2/2013;, and SCSP7 Rev 6a, SCSP8 Rev. 6a & SCSP9 Rev. 6 received 6/2/2014 shall be submitted to and approved in writing by the Local Planning Authority. Once approved, no development, other than site clearance and any investigation works that are required, shall be carried out until such time as any off-site works have been fully completed to the satisfaction of the Local Planning Authority in consultation with the County Highway Authority;
- 6) No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in

accordance with the approved Plan. The Plan shall include construction vehicle movements; construction operation hours; construction vehicular routes to and from the site; construction delivery hours; the expected number of construction vehicles per day; car parking for contractors; specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice; a scheme to encourage the use of public transport amongst contractors, and measures to avoid traffic congestion impacting upon both local roads and the Strategic Road Network;

- 7) The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted;
- 8) Before the development hereby approved is commenced, details of foul and surface water drainage to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be completed and become fully operational before the dwellings are first occupied. Following its installation, the approved scheme shall be permanently retained and maintained thereafter.