



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 20/06/22

**gan J P Tudor BA (Hons), Cyfreithiwr
(ddim yn ymarfer)**

**Arolygydd a benodir gan Weinidogion
Cymru**

Dyddiad: 08/07/2022

Appeal Decision

Site visit made on 20/06/22

**by J P Tudor BA (Hons), Solicitor
(non-practising)**

**an Inspector appointed by the Welsh
Ministers**

Date: 08/07/2022

Appeal Ref: CAS-01722-K3Q7W6

Site address: 2 Glyncoed, Velindre, Llandysul, Carmarthenshire SA44 5UG

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 Ms Cerys Cook against the decision of Carmarthenshire County Council.
 - The development proposed is to create a drop kerb access over the pavement into our back garden. Access point is already at the back of the property.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has not provided an Officer's Report and relies solely on the reasons for refusal given in its decision notice in this appeal.

Main Issue

3. The main issue is the effect of the proposed development on highway safety, with particular reference to visibility along the road from the rear access at the property.

Reasons

4. The appeal property is one of a pair of semi-detached houses which front onto the highway, where there is on-street parking. Its rear garden backs onto another highway. There is an opening, about 3.2 metres wide, in the low rear garden boundary wall onto the pavement, while the garden itself slopes down towards the house. The proposal is to create a dropped kerb access from the road to allow vehicles to cross the pavement and pass through the opening onto an off-road parking area within the rear garden of the dwelling.
5. Policy TR3, Highways in Developments – Design Considerations, of the Carmarthenshire Local Development Plan, Adopted December 2014 (LDP) indicates that the design and

layout of all development proposals will, where appropriate, need to include, amongst other things: *‘e) Required access standards reflective of the relevant Class of road and speed restrictions including visibility splays and design features and calming measures necessary to ensure highway safety and the ease of movement is maintained, and where required enhanced;’* It also states that proposals which do not generate unacceptable levels of traffic on the surrounding road network and would not be detrimental to highway safety or cause significant harm to the amenity of residents will be permitted.

6. In the Council’s view, the access would be unsuitable because of restricted visibility where it meets the highway. The Council also considers that the gradient of the access would make vehicle movement between the site and the highway difficult. Consequently, it maintains that the proposal would be contrary to LDP Policy TR3, which seeks to ensure highway safety. The Council’s reasons for refusal appear to be based on advice given by its highways department.
7. Conversely, the appellant holds that there is clear visibility from the access in both directions. Moreover, the appellant advises that she and her partner currently have to park vehicles on the street to the front of the house, which is near a busy village hall, shop, and nursery. They consider that this on-street parking causes a danger to highway safety which would be reduced if they had the ability to park off-road at the rear of their property.
8. As I observed on-site, next to the proposed vehicular access is a relatively high garden boundary, comprising a wall and timber fence with vegetation rising above, which separates the garden of the appeal dwelling from the neighbouring property to the south. Consequently, a driver emerging from the sloping site through the opening in the garden wall and looking left, even assuming that they were exiting in forward gear, would have very limited visibility, particularly of pedestrians approaching from the south-east along the adjacent pavement.
9. Similarly, when looking to the right, notwithstanding the low boundary wall fronting the pavement, a driver’s view of vehicle traffic travelling from the north-west in the nearside lane would be partially obstructed by a bus shelter and a pole supporting a digital speed sign, which are located immediately in front of the wall and only a few metres from the access point. Buses arriving or leaving and people waiting at the bus stop, albeit for temporary periods, would also be likely to impede views of parts of the highway. In addition, a high hedge bounding the northern side of the garden would partly obscure visibility of approaching vehicles further along the road.
10. The restricted visibility for drivers emerging from the access and limited intervisibility between them and some other highway users would be detrimental to highway safety. The above assessment is based on vehicles exiting the garden in forward gear. However, although there would appear to be sufficient space within the garden to accommodate a vehicle turning area, as the proposal is limited to a dropped kerb, that aspect is not clarified. If vehicles reversed out of the access, visibility of pedestrians and oncoming vehicular traffic would be even worse, further exacerbating highway safety concerns.
11. I note that the appellant indicates that she and her partner are willing to undertake work and other adaptations including, for example, raising the level of the garden to improve visibility along the road. The appellant also suggests that they would be prepared to knock down a wall to improve visibility. However, no such proposals appear to form part of the planning application and no specific details have been submitted with the appeal.
12. In any event, Article 7 of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2017 and s.47 of the Planning (Wales) Act 2015 restrict amendments to schemes being submitted on appeal, except where the amendment corrects an error in the information contained in the application and which

does not alter the substance of the application. That would not be the case here. I have also considered whether such changes could be dealt with by condition, but there is a lack of certainty about what precisely is proposed or if it would sufficiently mitigate the harm to highway safety that I have identified. Therefore, that course would not be appropriate. Consequently, I am only able to consider the proposal before me, as submitted.

13. According to the appellant the bus timetable indicates that busses arriving at the stop would not coincide with the times that she and her partner normally leave for work and arrive home. While that is noted, the bus timetable could change as could the appellant and her partner's working arrangements. Moreover, that is not likely to be relevant to other non-work-related vehicle journeys or, for example, during weekends or holidays. Equally, the house could be sold or let out and future occupiers may have different travel arrangements. In any event, the highway safety concerns detailed above are not confined to the effect of buses temporarily stopping outside the property at the bus stop.
14. The appellant states that a 'highways inspector' had advised her that the bus stop was far enough away from the access and that a dropped kerb would be acceptable. However, no independent written evidence of that advice appears to have been provided and it is said to have been given before the planning application, dated 26 December 2021, was made. Such advice would not be binding on the Council in considering the planning application. Moreover, it is inconsistent with the formal written advice of the Council's Head of Highways & Transport, dated 31 January 2022, in response to the planning application consultation, which forms the basis of the Council's reasons for refusal. In any case, I have made my own assessment based on the proposal, the appeal documentation and what I observed during my site visit.
15. Although not referred to by the appellant, there are some existing vehicle accesses to the rear of other residential properties along the same road as the appeal dwelling. However, each case needs to be considered on its individual merits and site-specific characteristics. It is unclear whether those other accesses benefit from planning permission or how long they have been in existence. Notwithstanding, the presence of other accesses in the vicinity would not justify creating a vehicle access which would be harmful to highway safety.
16. I have considered the appellant's views about the alleged danger to highway safety resulting from on-street parking to the front of the appeal property, along with photographs submitted with the appeal documentation. However, no compelling evidence of particular highway safety issues arising from parking along that road, such as a significant incidence of reported road traffic accidents, has been presented.
17. Furthermore, although they may be busy at some times of the day, the village hall and nursery opposite are served by a good-sized off-road car parking area. While there were cars parked along the road outside the appellant's property and a neighbouring shop at the time of my site visit, restricting use of one of the two highway lanes, that is not unusual along many roads and does not necessarily result in a detrimental impact on highway safety. I did not observe cars parked inappropriately on or over the pavement, the road is reasonably wide and there is adequate visibility for drivers and pedestrians in both directions. There were also plenty of spaces in the village hall parking area.
18. Therefore, while I appreciate that my site visit, during a weekday morning, represents only a snapshot in time, I did not witness anything that would lead me to conclude that there were significant highway safety issues associated with parking to the front of the dwelling. In any event, even if the existing parking to the front did have a negative impact on highway safety, it would not justify facilitating the use of a rear access and parking area that would also have a harmful effect.

19. Given the above, I conclude that the proposed development would, because of poor visibility from the access, have an adverse effect on highway safety along the road to the rear of the appeal property. It follows that it would be contrary to LDP Policy TR3 which, amongst other things, seeks to protect highway safety.

Conclusion

20. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

21. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015 ('the Act'). I consider that this decision is in accord with the Act's sustainable development principle through its contribution towards one or more of the Welsh Minister's well-being objectives as required by section 8 of the Act.

JP Tudor

INSPECTOR