



## Appeal Decision

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by I Stevens BA (Hons) MCD MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 2023/04/18

Appeal reference: CAS-02142-Q6P2P9

Site address: Pathways, Vinegar Hill, Undy, Monmouthshire, NP26 3EJ

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- 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 Peter Whitfield & Mrs Sonia Whitfield against the decision of Monmouthshire County Council.
  - The application Ref DM/2021/02078, dated 21 December 2021, was refused by notice dated 22 July 2022.
  - The development proposed is erection of one detached residential dwelling.
  - A site visit was made on 20 March 2023.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The submitted planning application description was for a four-bedroom detached dwelling. Following negotiation with the local planning authority (LPA), the proposal was amended to a two-bedroom detached dwelling. Revised plans were submitted and determined by the authority, with that scheme and the corresponding plans forming the basis of this planning appeal.

### Main Issues

3. The main issues are:
  - The effect of the proposed development on highway safety; and
  - Whether the proposal makes adequate provision for affordable housing.

### Reasons

#### *Highway safety*

4. The appeal site comprises an irregular shaped portion of land, which is located along the private access driveway within the wider grounds of a detached dwelling known as

Pathways. The driveway runs between two dwellings from its access point off Vinegar Hill before reaching the appeal site, at which point the route bends and continues towards Pathways. The area topography varies, with the appeal site sloping down from its northern boundary alongside the driveway, towards its southern boundary with a neighbouring dwelling, Walnut House. The grounds of another dwelling, Gwyn Royson, are adjacent to the eastern boundary of the appeal site. The western boundary of the appeal site adjoins land within the grounds of Pathways which benefits from planning permission for two dwellings (LPA reference: DM/2020/00234).

5. The proposal would share an access with Pathways and the two dwellings approved under Ref: DM/2020/00234. The Council refers to several design standards for private shared driveways set out in the Welsh Government Common Standards, released in June 2020. However, the status of such standards is unclear, and in any event, I have not been provided with a copy of the document or any evidence of their use within Monmouthshire. Given the lack of clarity on these matters, I am unable to attribute them significant weight in the determination of the appeal. I shall therefore assess the practical risks to highway safety within the context of the site constraints and the wider planning policy framework.
6. In considering such matters, it is necessary to note that the approved scheme for two dwellings includes highways improvements to the existing access driveway to accommodate the anticipated increase in vehicle movements. A minimum width of 4.1m for the first 10m along the access from Vinegar Hill was agreed, as indicated on the approved plans. The appellant has provided evidence that the planning conditions pertaining to the highway improvement works have been discharged and I could see that some works were underway during my site visit. I am therefore satisfied that such works can be considered as part of the assessment of this appeal.
7. The 4.1m width at the access point would comply with advice in the Council's Infill Development Supplementary Planning Guidance (SPG), adopted in November 2019. However, the driveway width varies along its approximate 39m length, with sections falling below the recommended dimensions, and the resulting likelihood that only one vehicle could travel along sections of the driveway at any given time. However, I recognise that the proximity of the two dwellings either side of the driveway constrains its width. I am also mindful that the SPG represents guidance only and does not have the same status as planning policy. Indeed, such advisory figures should be applied to the circumstances of each case having regard to the available evidence.
8. In this instance, the narrow driveway width would not promote high speeds along this route and most vehicle users would exercise caution when manoeuvring to and from the grounds of Pathways. The driveway is also relatively straight between its access off Vinegar Hill and the bend. As such, there would be good visibility of oncoming traffic and drivers could pull into the entrance side if another vehicle needed to pass along the driveway. I recognise that on occasions, reversing manoeuvres may be required between the access entrance and the appeal site. However, given that the amount of traffic generated by the proposal would not be significant on top of the approved scheme, I would not equate this with any serious risk to highway safety.
9. The approved plans for the two-dwelling scheme include a vehicle passing place within the wider site area, adjacent to the appeal site boundary on the opposite side of the driveway. These works, along with the widened access point off Vinegar Hill, would further improve arrangements for manoeuvring along the driveway. At both ends of the driveway, if vehicles had to reverse, it would only be for a short distance away from the bend into one of the passing places. Pedestrians navigating the driveway could also seek

refuge from oncoming vehicles in the passing places or along grass verges adjacent to the appeal site.

10. Although not cited in the reasons for refusal, the Council has also raised concern that private shared driveways must incorporate a turning area to facilitate vehicle access and egress from the shared driveway in forward gear. A turning area would be located adjacent to the appeal site as part of the approved two-dwelling scheme. This turning area would also facilitate access and egress from the shared driveway in a forward gear for the dwelling subject of this appeal. Given my conclusions on the access driveway in the circumstances described, the proposed arrangements would be acceptable.
11. Having regard to the low traffic volume, the domestic use of the driveway, and the driveway width and alignment, I have little evidence to suggest that the proposed additional dwelling would give rise to any significant highway safety risks. The proposal would therefore comply with the relevant highways considerations set out in Policy MV1 of the Monmouthshire Local Development Plan (LDP), adopted in February 2014.

#### *Affordable housing*

12. Policy S4 of the LDP sets out locations and thresholds where it is expected that affordable housing contributions would be made. Under the policy criteria, the appeal proposal would provide a financial contribution towards affordable housing provision in the local planning authority area. The calculation is based on advice contained in the Affordable Housing Supplementary Planning Guidance (SPG), adopted in July 2019.
13. The appellant is agreeable to the principle of providing for affordable housing. However, no formal agreement is in place to secure the provision. While the appellant refers to past applications having initiated such contributions once planning permission has been granted, the Affordable Housing SPG advises that prior to obtaining planning permission the applicant will need to enter into a Section 106 legal agreement to pay the financial contribution, with the contribution liable to be paid on completion and prior to occupation of the appeal dwelling. Welsh Government Circular 016/2014 'The Use of Planning Conditions for Development Management' advises that matters such as payments to be made to the local planning authority are more appropriately required through a planning obligation, and in this instance, I consider that a planning obligation is necessary. In the absence of a binding agreement, the proposal would not make adequate provision for affordable housing, contrary to LDP Policy S4 and the advice in the Affordable Housing SPG.

#### **Other Matters**

14. Interested parties refer to procedural issues with the planning application. As I am dealing with the planning merits of the proposal, it is not for me to comment on the process that led to the decision being issued. There are other means for interested parties to raise any issues with process, outside of this planning appeal.
15. There are also claims that the appeal proposal would be unlawful due to the extant permission for two dwellings identifying the appeal site as amenity area. Whilst reference is made to case law, there is a different set of circumstances in terms of the site context and proposal. Any proposal on the appeal site would be considered on its individual merits, having regard to material considerations. It does not follow that because an application for two dwellings has been approved on land including the appeal site, that a separate application subject to detailed consideration of all technical matters, would necessarily be physically impossible or unlawful. It also does not follow that the appellant must reapply for planning permission for the entire site.

16. The rear elevation of the proposed dwelling would be positioned at an oblique angle to Walnut House to the south. Two narrow windows are proposed on the rear elevation at ground-floor level. The principal windows would be on either side elevation of the dwelling. The position of the two narrow windows prevents harmful overlooking of Walnut House, given their position towards the upper height of the ground-floor level and beneath the roof eaves. While noting the minor breach in separation distances between the facing elevations of both properties, as indicated in the Infill Development SPG, the guidance also advises that distances may be relaxed where the impact on privacy can be reduced, as is the case in this appeal.
17. I note that trees are proposed within the appeal site and set in from the boundary, which is in addition to the existing fence and vegetation. The comprehensive package of landscaping and screening measures could be secured by planning condition and would also prevent harmful overlooking of neighbouring properties, including the garden of Gwyn Royson to the east of the appeal site. In terms of the outlook from Walnut House, whilst noting the level differences, the relatively low ridge height of the proposed dwelling together with the distances and screening measures would ensure that the dwelling does not have an overbearing effect on the neighbouring property. Neither have I seen any suggestion that the proposal would have a detrimental impact on daylight levels into the habitable room windows of neighbouring properties. Overall, I am satisfied that the proposal would not have a harmful effect on the living conditions of occupiers of nearby properties.

### **Planning Balance and Conclusion**

18. I have found that the proposal would not give rise to harmful effects on highway safety. Nevertheless, the harm and associated policy conflict associated with the absence of a completed legal agreement to secure affordable housing provision represents a compelling reason why planning permission should be withheld in this instance. For this reason, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.
19. 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. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives.

*I Stevens*

INSPECTOR