



Appeal Decision

by Mr A Thickett BA (Hons) BTP Dip RSA MRTPI

an Inspector appointed by the Welsh Ministers

Decision date: 18/12/2023

Appeal reference: CAS-02706-T1R7H4

Site address: Land off Hardwick Cottage, Hardwick Hill, Chepstow, Monmouthshire, NP16 5DT

- 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 Madge against the decision of Monmouthshire County Council.
 - The application Ref DM/2022/00956, dated 28 June 2022, was refused by notice dated 26 October 2022.
 - The development proposed is a single dwelling and garage with associated external works including driveway, parking and garden provision.
 - A site visit was made on 7 December 2023.
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Decision

1. The appeal is allowed and planning permission granted subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. If one ticks 'Yes' in answer to the question on the appeal form regarding making an application for costs, one is then required to make the application on the appeal form (or submit on a separate sheet). On the appeal form the appellants' cite the fees incurred employing their architect and highway consultant but no more. No additional costs submission is made.
3. Costs are awarded only where it has been demonstrated that a party has behaved unreasonably and that unreasonable behaviour led the party applying for costs to incur wasted or unnecessary expense. The appellants' make no case in these terms with regard to costs and I have treated the application as not made.

Main Issue

4. The main issue is the impact of the proposed development on highway safety.

Reasons

5. The site comprises a paddock/field adjoining Ashfield House. Access to the site would be to Hardwick Hill (A48(T)) via an existing field gate. The A48(T) is subject to a 20mph

speed limit as it passes the site. The A48(T) is a trunk road in this location and the Council defer to the Welsh Government (Network Management Division)(NWD) on highway matters. The appellant disputes the competence and authority of the NWD, arguing the proposal does not involve: *'the formation, laying out or alteration of any access to or from any part of a trunk road which is either a special road or, if not a special road, a road subject to a speed limit exceeding 40 miles per hour.'* (Article 19(a) Town and Country Planning (Development Management Procedure) (Wales) Order 2012).

6. NWD disagree but I do not consider resolving this argument is a matter for me or that doing so would assist me in determining this appeal. The Council has deferred the defence of this appeal to NWD and it is its submissions I must consider.
7. The Design Manual for Roads and Bridges standards (DMRB) apply to all new and modified accesses to the trunk road network. The proposed development would utilise an existing access, it is not new, nor is it proposed to be modified. The appellants' state the gate is used to access the field and is a secondary access to the appellant's house. At the time of my visit, there was a car parked just behind the gate to the field. However, whatever the existing use of the access, it is fair to assume its use would increase as a result of the proposed development. It is, therefore, reasonable to consider whether it would be suitable to serve the proposed development.
8. NWD argue the DMRB minimum standards in accordance with a 60 kph design speed should apply (around 37 mph). However, with regard to visibility, Table 2.10 of DRMB CD 109 includes stopping site distances at 50 kph (around 31 mph), why would this be if applying standards below a 60 kph design speed is not permissible? I appreciate the DMRB sets out circumstances where standards may be relaxed but standards should not be applied slavishly, regard must be given to the circumstances of each case.
9. The speed limit when the appeal application was refused was 30 mph, it is now 20 mph. Vehicle movements would increase as a result of the proposed development. However, NWD do not dispute the appellants' contention that; *'single dwellings and field gates are defined as having direct equivalence within DMRB CD 123, and movements have been demonstrated to not exceed the allowable margins for either use.'*
10. Visibility at the access is 2.4m by 70m in either direction. This satisfies the guidance in Table 2.10 of DRMB CD 109. I acknowledge the exemption for trunk roads regarding the stopping sight distances in Annex B to Technical Advice Note 18, Transport (TAN 18) which are applicable to roads in built up areas where actual or design speeds are 60km/h or below. Nevertheless, the question here is would visibility at the access be sufficient to accommodate the proposed development safely?
11. The stopping site distance for 50 kph in Table A, Annex B of TAN 18 is identical to Table 2.10 of DRMB CD 109. At 20 mph Table B, Annex B of TAN 18, the stopping site distance for 20 mph is 45m. No matter what the DMRB may say, 20mph is the speed limit, visibility accords with Table 2.10 of DRMB CD 109 and well exceeds that deemed necessary in a 20 mph area. In these circumstances, insisting on a higher standard is unreasonable and unjustified. I conclude that the proposed development would not have an adverse impact on highway safety and complies with LDP Policy MV1.

Other Matter

12. The site is within the Chepstow Conservation Area. The adjoining property and those nearby are typical of the late 19th and early 20th centuries but I agree with the Council that the design and scale of the proposed development would preserve the character and appearance of the Conservation Area.

Conditions

13. I have considered the conditions suggested by the Council and NWD in light of the advice in Circular 16/14. Given my conclusion that the access is existing and, as single dwellings and field gates are defined as having direct equivalence within DMRB CD 123, I see no need to impose the conditions relating to gates, width of access and gradient suggested by WGNWD.
14. The Council has indicated it does not consider a condition requiring gigabit capable broadband infrastructure to be necessary but Policy 13 of Future Wales requires this for all new development. The Council suggest a condition requiring biodiversity enhancement to be provided as shown on submitted plans. I can see no such plans nor the maintenance schedule referred to in the committee report and Design and Access Statement. I have, therefore, imposed a condition requiring the submission of details.

Conclusion

15. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.
16. 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 the Welsh Ministers' well-being objective to make our cities, towns and villages even better places in which to live and work.

A Thickett

Inspector

SCHEDULE

CAS-02706-T1R7H4

The appeal allowed and planning permission is granted for a single dwelling and garage with associated external works including driveway, parking and garden provision at land off Land off Hardwick Cottage, Hardwick Hill, Chepstow, Monmouthshire, NP16 5DT, in accordance with the terms of the application, Ref DM/2022/00956, dated 28 June 2022, subject to the following conditions.

1. The development hereby permitted shall begin no later than five years from the date of this decision.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following plans: Proposed Block Plan; 205/120, Proposed LGF Plan; 205/124, Proposed GF Plan 205/123, Proposed FF Plan; 205/122, Proposed Roof Plan; 205/121, Proposed North Elevation; 205/131, Proposed East Elevation; 205/130, Proposed South Elevation; 205/133, Proposed West Elevation; 205/132.

Reason: To ensure the development is carried out in accordance with the approved plans submitted with the application.

3. No development shall take place until a scheme to enable the provision of gigabit capable broadband infrastructure from the site boundary to the [dwellings / buildings] hereby permitted has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To support the roll-out of digital communications infrastructure across Wales in accordance with Policy 13 of Future Wales.

4. No development shall take place until a scheme for biodiversity enhancement has been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining and enhancing biodiversity, in accordance with Future Wales Policy 9.