
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 01/03/17

Ymweliad â safle a wnaed ar 01/03/17

**gan Clive Nield BSc(Hon), CEng,
MICE, MCIWEM, C.WEM**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 17.03.2017

Appeal Decision

Hearing held on 01/03/17

Site visit made on 01/03/17

**by Clive Nield BSc(Hon), CEng, MICE,
MCIWEM, C.WEM**

an Inspector appointed by the Welsh Ministers

Date: 17.03.2017

Appeal Ref: APP/T6850/A/16/3159853

Site address: Box Bush Farm, Three Cocks, Brecon, LD3 0SH

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 Mr Andrew Laurie-Chiswell against the decision of Powys County Council.
 - The application Ref P/2015/1102, dated 11 November 2015, was refused by notice dated 4 August 2016.
 - The development proposed is change of use to a touring caravan park, conversion and extension of existing buildings to provide sanitary, office, retail (site users only), storage and garage facilities, alteration to the access arrangements and installation of a private sewage treatment facility.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to a touring caravan park, conversion and extension of existing buildings to provide sanitary, office, retail (site users only), storage and garage facilities, alteration to the access arrangements and installation of a private sewage treatment facility at Box Bush Farm, Three Cocks, Brecon, LD3 0SH in accordance with the terms of the application, Ref P/2015/1102, dated 11 November 2015, and the plans submitted with it, subject to the conditions in the attached Annex.

Procedural and Background Matters

2. On the original application form the site address was described as: Box Bush, A4079 from Junction with A438 by Three Cocks to Junction etc, Bronllys, Brecon. That was simplified in the Council's notice of refusal, and the simplified site address is adopted for this appeal. The description of the development is also slightly different on the appeal form compared with the application form and, again, reflects that in the Council's notice of refusal. The change is not material, and I have adopted the original wording.
3. The proposal for a touring caravan site on the land has been the subject of several planning applications since 2011, including one in 2012 (Ref P/2012/0465) which was dismissed on appeal (Ref APP/T6850/A/13/2206566) in May 2014. The Inspector

concluded that the proposal would be harmful to highway safety, primarily due to an inadequate visibility splay along the road to the west and the high speeds of some traffic on that road. The current proposal has attempted to address that matter by moving the caravan site access further to the east along the site frontage.

4. At the Hearing an application for costs was made by Mr Laurie-Chiswell against Powys County Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue in this case is the effect of the proposed development on highway safety, particularly in respect of the adequacy of the visibility splay to the west and of the geometry and layout of the proposed access.

Reasons

Visibility Splay

6. It is agreed amongst all parties that visibility along the highway should be at least 215 metres in both directions (generally referred to as the "Y-distance"), and the Council and the Appellant agree that this should be assessed from a point set back from the edge of the carriageway of 2.4 metres (generally referred to as the "X-distance"). The third party objectors argue the set-back should be 4.5 metres.
7. Technical Advice Note 18: Transport (TAN18) provides advice on visibility standards and says a minimum X-distance of 2.4 metres should be used in most situations, as this represents a reasonable maximum distance between the front of the car and the driver's eye. It mentions the possible use of longer X-distances to allow drivers to look for gaps in the traffic as they approach the junction but advises that "longer X-distances are not safety critical". In this case the A4079 highway is not heavily trafficked, and vehicles leaving the proposed access would not have any problems joining the highway on this account. Thus I consider an X-distance of 2.4 metres to be the appropriate standard to be applied to this access.
8. On that basis there is no dispute that an adequate visibility splay could be achieved to the east (i.e. looking right from the proposed access), and the Council now accepts that adequate visibility would also be achieved to the west and no longer defends its first Reason for Refusal on this matter. However, the third party objectors maintain their argument that the required 215 metres visibility would not be achieved to the west. This same concern was the reason the previous Inspector dismissed the appeal in 2014, albeit for an access proposed at that time some distance further to the west along the site frontage.
9. In order to improve visibility to the west the current proposal includes the setting back of the road-facing wall of the large shed (involving partial demolition) and realignment of a section of hedgerow on the appeal site's roadside boundary. In recent years the Appellant has also improved visibility to the west of his property by clearing shrub growth from the wide grass verge and trimming a length of field hedge belonging to a neighbouring landowner. These measures were carried out with the agreement of the Highways Authority, and no evidence has been brought forward to indicate any lack of agreement on the part of the third party landowner. The result is that the required 215 metres visibility splay is currently readily available.

10. However, the third party objectors submit that when allowance is made for growth of the hedge the visibility would be reduced to only 209 metres. It is the Council's practice to require developers planting new hedges to allow for future lateral growth of 1 metre when assessing visibility splays and, although the circumstances are different here, it seems to me that a similar rule of thumb would be appropriate in this case. When I carried out my site visit I was able to make such an allowance and to satisfy myself that, even with that extra width of hedgerow, the neighbour's hedge would not impinge on the 215 metres visibility splay. Thus on that basis, the proposed access would benefit from adequate visibility along the highway.
11. The third party objectors take exception to the Appellant trimming his neighbour's hedge and say he has cut it back so far that the original centre line is now near the roadside face of the hedge. They argue that I should measure the 1 metre growth allowance from the original width of the hedge rather than its current width, and they have provided plans to illustrate the effect this would have on the visibility splay. However, I do not consider that to be appropriate. The size and form of the hedge is now what it is, and future growth will start from this state. The objectors' submission that the Appellant should not have cut his neighbour's hedge has little relevance to my considerations, and I have taken the only reasonable approach to assessing the effect of the hedge on visibility based on its current circumstances.
12. My conclusion on this matter is that the proposed access would enjoy adequate visibility along the highway to ensure highway safety would not be harmed by the proposed development.

Geometry and Layout of Access

13. The Council's second reason for refusal concerned the geometry and layout of the proposed access, which would involve a relatively short initial length perpendicular to the highway before it bends sharply to the west to enter the caravan area. The Council's initial response to the Appellant's requests for clarification on this reason for refusal were to the effect that a length of 15 metres perpendicular to the highway was required in order to meet the standards prescribed in the Design Manual for Roads and Bridges (DMRB). However, it was later acknowledged that no such standard is prescribed in the DMRB and the standard is the Council's own good practice measure.
14. It was explained that the aim of this measure is to ensure that vehicles approaching the junction with the public highway are perpendicular to it so that the drivers can look readily in both directions along the road and that drivers entering the access from the highway can see its shape and form well in advance. The appeal access would have a length of about 9 metres perpendicular to the highway before bending sharply to the west. This is ample length for a car to approach the highway and, in my view, would also enable a car towing a caravan to approach the highway so that the car would be perpendicular to it, even if the caravan was still at an angle.
15. Whilst the 15 metres length normally specified by the Council is a desirable arrangement, it does not necessarily follow that a lesser standard is inadequate. The safety of each alternative arrangement needs to be individually assessed. In this case, cars towing caravans (the critical vehicle unit in this case) would tend to approach the access relatively slowly and would have plenty of time to see its geometry and shape before turning into it from the highway or approaching the highway from within the site. Thus, from the point of view of driver visibility the shorter perpendicular distance would be entirely adequate.

16. The second element of concern about the access geometry is the constraints on manoeuvrability that it would impose. The curves would have relatively short radii and the access width would be limited, the initial width being some 10.6 metres, but reducing to 6 metres and then 5.5 metres further into the site. The geometry is constrained by the close proximity of the Appellant's house.
17. The Council argues that the DMRB standards contained in TD41/95, Vehicular Access to All Purpose Trunk Roads, should be applied to this access, even though the A4079 is not a trunk road. The Inspector who dealt with the previous appeal in 2014 considered that the appropriate DMRB standard on visibility should be applied to the proposed access and, in view of the high traffic speeds experienced along this stretch of road, I agree, even though it is relatively lightly trafficked. I have applied the appropriate standard in my assessment of the visibility splay above. However, the Council argues that the recommendations for geometric design of access junctions contained in TD41/95 should also be fully applied.
18. The smallest kerb radius in the proposed design is 6 metres; the Council submits that a minimum standard of 10 metres should be applied. The third party objectors consider the design standards in TD42/95, Geometric Design of Major/Minor Priority Junctions, should be applied and submit that the curves should have a minimum radius of 15 metres (or 10 metres if no large vehicles would use the access) with further refinement for transitions. However, that guidance is aimed at junctions between 2 roads and is unnecessarily prescriptive for an access such as this.
19. Rather than insist on slavish compliance with numeric standards, the key issue is whether or not the proposed access would provide a safe means of entering and leaving the site for the modest amount of traffic generated by the proposed caravan site. The Appellant has provided evidence of a wept path analysis, using the longest combination of car and caravan unit allowed, which demonstrates that it would be feasible for units entering and leaving the site at the same time to pass on the entrance to the access. It is contended that the space between the paths is too tight (about 0.5 metre) and that they pass over some kerb lines and over the centre line of the highway. However, it must be remembered that these analyses are for a very extreme situation: 2 of the largest possible units (a large 4x4 car towing the longest caravan permitted on the public highway) arriving and leaving at the same time. It is normal practice for touring caravan sites to experience caravans arriving later in the day and leaving early in the day, so the chance of any sort of towed unit clashing with one coming in the opposite direction would be quite slim.
20. Other arguments have been put forward, e.g. towed caravans having to slow down to enter the site causing disruption and danger to fast moving traffic; and the accident record of the A4079. However, in view of the long lengths of visibility along this stretch of the highway, I do not consider the slowing of caravans to enter the site would significantly affect highway safety. As for the accident record, the accidents occurred some distance from the appeal site and illustrate the dangers of a particular bend rather than the risks of the highway as a whole. These arguments carry little weight.
21. My overall conclusion on the access layout is that, whilst larger kerb radii would be ideal, the combination of geometry and width provided in this case would ensure an access of acceptable design and safety.

Other Matters

22. Although the Council's only reasons for refusing the application were on grounds of highway safety, the third party objectors have raised a number of other matters. Firstly, they consider that exclusion of the Appellant's dwellinghouse from the application site may have some significance. However, any future changes relevant to planning would be subject to further applications to the Council for appropriate consideration, and traffic associated with the house would have negligible effect on the safety of the proposed new access. The development description quoted on the appeal form is also slightly different from that on the application form. However, it merely adopts the description used by the Council in its refusal notice; the scheme itself is unchanged.
23. Concern has been expressed about the size of the proposed shop, and it is alleged that it would attract customers from outside the camp site, leading to increased traffic using the access. However, a suitable planning condition could ensure that it was solely ancillary to the caravan site use. Drainage arrangements and effects on ecology have also been raised. However, Natural Resources Wales commented on these matters as part of its consultation response, and no new evidence has been brought forward to lead me to a view that these are of any concern. Finally, it is asserted that there is a lack of clarity in the application such that its acceptable delivery is flawed. I consider there is no merit in this argument and that the proposal is sufficiently clear.
24. It should not be overlooked that the proposed development would bring a range of benefits. The previous Inspector referred to these in his 2014 decision: "the appeal site is well related to local facilities and lies in an area where tourism is encouraged by national and local planning policy"; and "the proposal (which involves small scale economic development) would bring about benefits to the local rural economy".
25. I have also considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 ("the WBFG Act"). In reaching this decision, I have taken into account the ways of working set out in section 5 of the WBFG Act and I consider that this decision is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Overall Conclusion

26. I have taken into account all matters raised by both the Council and the local third party objectors, but nothing outweighs my conclusions that the proposed development would include an adequate and safe means of access and that the visibility shortcomings of the scheme considered at appeal in 2014 have been satisfactorily overcome. In its refusal the Council has referred to policies SP8 (Tourism Developments), GP1 (Development Control), GP4 (Highway and Parking Requirements), TR1 (New Tourism Developments) and TR7 (Touring Caravan and Camping Sites) of the adopted Powys County Council Unitary Development Plan, and I consider the proposal is in compliance with these and all other relevant policies.
27. For the reasons given above I conclude that the appeal should be allowed and that planning permission should be granted subject to a suite of necessary conditions.

28. A set of conditions was suggested by the Council and these, and other suggestions from the parties, were discussed at the hearing. The standard 5 years condition is needed as well as a condition specifying the approved plans. A number of conditions are needed to ensure the access is completed to acceptable design and construction standards, that parking facilities are provided within the site, that the specified visibility splays are provided and maintained, and that the existing means of access is closed, though the Council's suggested 5 days timeframe for some of these is not appropriate. Suggested conditions on the setting back of gates and the erection of a barrier along the back of the visibility splay are clearly not appropriate in this case.
29. Conditions are also required to ensure landscaping works are carried out as proposed and that necessary bat avoidance and mitigation measures are carried out. Conditions were also suggested for post construction monitoring of bats and for an amphibian avoidance scheme. However, I do not consider these to be necessary as the first would serve no purpose relevant to planning and no significant presence of amphibians has been identified.
30. In addition, conditions are needed to limit the number of caravans permitted on the site, to prevent the sloping area at the back of the site from being used for caravans, and to control occupation of the caravans solely as holiday accommodation (all to safeguard the character and appearance of the local environment). I have also explained above that a condition is needed to tie the use of the proposed shop to the caravan site use. Finally, a condition is needed for provision of a construction management scheme to control hours of construction work and parking, amongst other things, in order to minimise impacts on amenity.
31. The Appellant suggested that a condition limiting the times when caravans were allowed to arrive at and leave the site would ensure there would be no risk of conflict at the site entrance. However, that is unnecessary as I consider the risk to be small anyway. Other conditions were also suggested for employee parking and the provision of a travel plan. However, the site plan already includes adequate parking provision, and the very nature of the development is such that a travel plan would serve no useful purpose.

Clive Nield

Inspector

APPEARANCES

FOR THE APPELLANT:

Andrew Laurie-Chiswell	Appellant.
Peter Weavers, FACCA	Peter Weavers Business Services – Agent.
Michael Haire, CMLI	Landscape Consultant.

FOR THE LOCAL PLANNING AUTHORITY:

Tamsin Law, BSc, MSc	Principal Planning Officer.
Dale Boyington, BA, HNC (Civ Eng)	Development Manager, Highways.
Colin Edwards	Solicitor.

INTERESTED PERSONS:

Neil Evans	Neighbouring Resident.
Professor Charles Craddock, CBE, FRCP, FRCPATH	Local Resident.
Andrew Bevan, MA, MRTPI	ab planning – Agent for Mr Evans.
Matt Thomas, BSc, MSc, FCICT, FIHT	Director, Vectos, Transport Planning Consultant.
Alastair Pike, MICE, MCIHT, MSRSA	Senior Technician, Vectos.

DOCUMENTS SUBMITTED AT HEARING

- 1 Letter of Notification of Hearing and list of persons notified.
- 2 Set of Conditions Suggested by Council.
- 3 Appellant's Costs Application with 2 Appendices of relevant correspondence and extracts of other appeal documents and correspondence relevant to the costs application.
- 4 Council's response to the costs application in respect of Reason for Refusal 1.

PLANS

A1-A12 Application Plans:

230/01 Rev B – Site Location Plan.

230/02 – Existing Site Layout Plan.

230/03 Rev F – Proposed Site Layout Plan.

230/05 Rev A – Large Store Shed, Existing Plans and Elevations.

230/06 Rev A – Small Store Shed, Existing Plans and Elevations.

230/07 Rev A – Stable/Garage, Existing Plans and Elevations.

230/08 Rev F – Conversion of Large Shed into Caravan Park Shop, Proposed Plans and Elevations.

230/09 Rev B – Conversion of Small Shed into Store, Proposed Plans and Elevations.

230/10 Rev E – Conversion of Stables into Sanitation Block, Plant, Office, Waste + Recycling, Store Room, Reception + Extension of Garage – Proposed Plans.

230/11 Rev C - Conversion of Stables into Sanitation Block, Plant, Office, Waste + Recycling, Store Room, Reception + Extension of Garage – Proposed Elevations.

BOX BUSH 001C – Topographical Survey.

397/05 Rev D – Planting Plan.

B1-B3 3 Drawings submitted to the Council on 6 May 2016, all numbered J159/access/Fig1:

- Access Design (Geometry).
- Swept Path Analysis for vehicles entering the site.
- Swept Path Analysis for vehicles leaving the site.

C1-C4 4 Plans submitted at the Hearing by Vectos on behalf of objectors:

Figure 1 – On Centre Survey, Overlaid with Appellant's Survey.

Figure 2 – Desirable/ Achievable Western Visibility Splays.

Figure 3 – Appellant's Visibility Plans.

Figure 4 – Visibility Restrictions from Appellant's Topographical Survey.

ANNEX of Conditions

- 1) The development shall begin not later than five years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans: 230/01 Rev B; 230/02; 230/03 Rev F; 230/05 Rev A; 230/06 Rev A; 230/07 Rev A; 230/08 Rev F; 230/09 Rev B; 230/10 Rev E; 230/11 Rev C; BOX BUSH 001C; 397/05 Rev D; and 3 plans all numbered J159/access/Fig 1 denoting Access Design (Geometry) and two Swept Path analyses.
- 3) No development shall commence until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall include provisions for: hours of work during the construction period; the parking of vehicles of site operatives and visitors; and the loading and unloading of plant and materials and their storage on the site.
- 4) No other development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level and 2.4 metres back from the edge of the main carriageway at the centre of the access to points 0.26 metre above ground level at the edge of the main carriageway and 215 metres distant in each direction, measured along the edge of the carriageway. Nothing shall be planted, erected or allowed to grow on the areas of land so formed that would obstruct the visibility, and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
- 5) Upon formation of the visibility splays as detailed in Condition 4 above, the centre line of any new or relocated hedge shall be positioned no less than 1 metre to the rear of the visibility splay and shall be retained in that position for as long as the development remains in existence.
- 6) Before any other development is commenced the vehicular access shall be constructed to a minimum of 410 mm depth, comprising a minimum 250 mm of sub-base material, 100 mm of bituminous macadam base course and 60 mm of bituminous macadam binder course material, for a distance of 20 metres from the edge of the adjoining carriageway, measured along the centre line of the access. Any proposal to use alternative materials shall be submitted to and approved in writing by the local planning authority prior to the access being constructed.
- 7) Prior to the first use of the caravan park the vehicular access shall be finished in a 40 mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway, measured along the centre line of the access.
- 8) Prior to the commencement of development, a scheme of bat avoidance and mitigation measures, including the measures described in the bat report (by Just Mammals Consultancy LLP, dated July 2012) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 9) Prior to the first use of the caravan park any pre-existing means of access shall be closed for normal use and only thereafter be used for emergency purposes. Detailed proposals for its closure and subsequent future availability for

- emergency use are to be submitted to and approved in writing by the local planning authority.
- 10) Prior to the first use of the caravan park provision shall be made within the site for the parking of cars as shown on approved plan 230/03 Revision F, together with a turning space to allow all vehicles serving the site to enter and leave the site in forward gear. The parking and turning areas shall be retained for their designated uses for as long as the development hereby permitted remains in existence.
 - 11) The landscaping works shall be carried out in accordance with page 6 of the Design and Access Statement (August 2015) and approved plan 397/05 Revision D, Planting Plan, during the first planting season immediately following completion of the development. 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.
 - 12) No caravans shall be positioned on the grassed sloping bank at the rear of the site, indicated on approved plan 230/03 Revision F as "to be used as recreation area only".
 - 13) No more than 24 touring caravans (or camper vans or tents) shall be stationed on the site at any time.
 - 14) The development shall be occupied as holiday accommodation only and shall not be occupied as a person's sole or main place of residence or by any persons exceeding a period of 28 days in any calendar year. An up to date register shall be kept at the touring caravan site hereby permitted and be made available for inspection by the local planning authority upon request. The register shall contain details of the names of all of the occupiers of the caravans, their main home addresses and their date of arrival and departure from the site.
 - 15) The caravan park shop included in the permitted development shall be for use ancillary to the caravan park only.