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# Appeal Decision

Site visit made on 18 June 2014

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

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

**Decision date: 21 July 2014**

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**Appeal Ref: APP/L3245/A/14/2216970**

**Plas Wilmot, Weston Lane, Oswestry, Shropshire SY11 2BB**

- 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 R Hill against the decision of Shropshire Council.
  - The application Ref 13/03184/FUL, dated 8 August 2013, was refused by notice dated 18 March 2014.
  - The development proposed is the formation of a new access.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. It is considered that the main issue is the effect of the proposed development on the safety of other users of the access road.

## Reasons

3. The proposed development is to provide an access to a scheme of 7 dwellings within the curtilage of Plas Wilmot which the Council has approved with an access from Weston Lane (Ref 11/04122/OUT). Accordingly, the concerns expressed by local residents regarding the planning merits of the approved scheme are not matters for me to address as part of this appeal.
4. The appeal scheme comprises access road which has substantially been constructed except for a length across a residential plot which is being developed by the appellant (Ref 14/00123/FUL). Part of the road is subject of an adoption agreement with the Highway Authority and the remainder is a private drive. Local residents have identified a previous limit on the number of dwellings served from a private drive but I am not aware that such a limitation currently applies. This approach is reflected in *Manual for Streets* and there is no objection from the Highway Authority to 13 dwellings being accessed from the road.
5. I have noted the comments of local residents about the possible removal or lopping of a hedge fronting Modra Road close to the junction with the access road. This hedge is not controlled by the appellant. However, my observations during the site visit were that the drivers exiting the access road would be able

- to see vehicles travelling along Modra Road. Similarly, vehicles exiting the road would be seen by other highway users travelling along Modra Road.
6. The available visibility splay at the junction would be adequate and this would not prejudice the safety of other highway users. This judgement reflects the views of the Highway Authority and there would be no conflict with the National Planning Policy Framework (the Framework) which refers to development only be prevented or refused where the residual cumulative impacts of development are severe.
  7. However, the width of the access road varies, including being below the 4.1 metres identified in *Manual for Streets* for 2 cars to pass each other. There are also abrupt changes in the horizontal alignment of the road adjacent to Meadow View. These changes of alignment and the adjacent vegetation materially restricts forward visibility along this part of the road. The road is a shared surface and its reduced width would provide limited scope for vehicles travelling in opposite directions to safely pass.
  8. When compared to the existing properties and the dwelling under construction, the potential conflict between vehicles and other highway users would increase if additional traffic utilised the access road. Because of the width and alignment of the road and the increase in traffic there would be a severe and detrimental effect on the highway safety of other users of the road. The potential speed of traffic, the absence of street lighting along this part of the road does not affect the judgement which has been reached.
  9. There is a lack of detail about the collection point for refuse containers, the ongoing maintenance of the road and the potential creation of a vehicular link between Modra Road and Weston Lane which might result in more vehicles using the road. However, as noted by the Highway Authority, these matters could be the subject of an appropriate condition and a Planning Obligation. No Planning Obligation has been provided for me to consider.
  10. Although careful regard has been had to the comments of the Highway Authority, it is concluded that the proposed development would cause adverse harm to the safety of other users of the access road and, as such, it would conflict with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy. Amongst other matters this policy requires development to be safe and accessible and is consistent with the Framework's policy of creating safe and secure layouts which minimise the conflict between traffic and pedestrians.

*Other Matters*

11. Since the planning permission was granted for the adjoining residential development Plas Wilmot is now included on the statutory list of buildings of special architectural or historic interest. There is a requirement that special regard is had to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses.
12. The proposed development would not adversely affect the setting of this Listed Building. However, the approved access would involve the demolition and rebuilding of a boundary wall fronting Weston Lane and alterations to the carriage turning circle. However, the Council has not indicated that the extant

planning permission would be incapable of being implemented because the approved access would fail to persevere the setting of Plas Wilmot.

13. On the basis of what was observed during the site visit the existing properties are set back sufficiently from the access road to avoid any material harm to the occupiers by reason of the noise and disturbance associated with the potential increase in vehicle movements. The comments concerning the potential for damaged to be caused to vehicles by cricket balls and the parking of visitors to the cricket club on the road have been noted. Similarly, the favourable comments of residents living along Weston Lane have been noted. However, none of these other matters alters the main issue which has been identified as the basis for the determination of this appeal.
14. Whether there is a covenant which limits the number of properties which could be accessed from the road and whether a management company should have been established are matters for other legislation and are given limited weight in the determination of this appeal. Accordingly, and taking into account all other matters including the Framework's presumption in favour of sustainable development, it is concluded that this appeal should fail.

*D J Barnes*

INSPECTOR