
Appeal Decision

Site visit made on 9 November 2016

by Mr Kim Bennett BSc DipTP MRTPI

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

Decision date: 16 November 2016

Appeal Ref: APP/H2265/D/16/3157841

562 London Road, Ditton, Aylesford, Kent ME20 6BX

- 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 Kieran & Leanne Fowler against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/16/01212/FL, dated 12 April 2016, was refused by notice dated 8 July 2016.
 - The development proposed is a new cross over and vehicular access.
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Application for Costs

1. An application for costs was made by Mr & Mrs Kieran & Leanne Fowler against Tonbridge and Malling Borough Council. That application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for a new cross over and vehicular access at 562 London Road, Ditton, Aylesford, Kent ME20 6BX in accordance with the terms of the application, Ref TM/16/01212/FL, dated 12 April 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: existing and proposed site plans both dated April 2016.
 - 3) The use of the access hereby permitted shall not commence until the vehicle parking spaces and vehicle turning areas shown on the approved plans, have been provided surfaced and drained. Thereafter they shall be kept available for such use and no development whether permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending revoking and re-enacting that Order) shall be carried out on those areas of land.
 - 4) The gradient of access hereby permitted shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.

Main Issue

3. The main issue is the effect of the proposal on the safety and free flow of traffic on this part of the A20.

Reasons

4. Number 562 London Road comprises a two storey end of terraced property located on the northern side of the road. It has an attached side garden on its eastern side which is partially enclosed by a low brick wall on the front boundary. The property fronts on to the A20 which is a busy classified road at this point, and subject to a 40mph speed restriction. There are cycleways on either side of the road. The property forms part of the Cobdown Farm Ditton Conservation Area.
5. The Council is concerned that the formation of the access would cause highway safety issues on the A20 and reliance for this view seems to be largely based on an appeal decision in 2012 which dismissed a proposal for a vehicular access, parking area and removal of boundary wall at No 566 London Road, which is part of the same terrace (the 2012 appeal decision)¹.
6. I visited the site towards the end of the weekday morning rush hour and noted that whilst traffic was busy, vehicle speeds did not seem excessive, partly because of the existence of traffic lights a short distance to the east of the site. Visibility was good in both directions and given the width of the road, I also observed that vehicles looking to turn right into the site, would still allow vehicles to pass in the same direction without obstructing the free flow of traffic.
7. The proposal would allow for parking of two vehicles on site as well as a turning area. The latter would be adequately sized to facilitate a relatively straightforward manoeuvre which would enable vehicles to enter and leave the site in a forward direction, and I think it likely that such a facility would be used in practice given the busy nature of the road. I understand that current parking arrangements for the site are either on street or in nearby laybys and therefore there would be no net additional traffic on the A20 as a result of the proposal.
8. The Highway Authority appears to have been consulted twice on the proposal with two separate responses, both of which raised no objections. In particular, the second response noted that there has been no crashes recorded in relation to an existing access at No 568 London Road at the opposite end of the terrace, which was granted permission in 2002, and that in the previous 3 years only one crash had been recorded at a nearby filling station to the west of the site. I attach significant weight to the Highway Authority responses which appear to have been carefully formulated in relation to assessing the specific proposal at No 562 and having regard to existing and historical highway conditions and accident data.
9. I note the findings of the Inspector in the 2012 appeal decision, but an important difference from a highway safety point of view was the absence of any proposed turning area in relation to that proposal. Nevertheless, he still felt that there would be additional hazards for motorists. Notwithstanding that

¹ Appeal Ref APP/H2265/D/12/2176454

finding, there is no evidence before me as to whether the Inspector had the benefit of crash data at the time and was therefore able to distinguish between a perceived potential hazard and an actual one based on statistical data. Although I also note the reference to potential hazards for motorists by the presence of cyclists, the cycleways are well defined and motorists already have to have regard to other access points across the cycleways elsewhere in the vicinity. I do not consider a single additional access would therefore make that situation more hazardous. That view would also seem to be borne out by the

10. crash data. Finally, I note that the Inspector also found the proposal harmful for other reasons, including harm to the Conservation Area and to residential amenity. Accordingly, I am satisfied that there are material differences between the proposal currently under consideration and the 2012 decision.

Other Matters

11. Because of its inclusion within the Conservation Area, I have had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. In that respect the Council notes that the recent removal of part of the front boundary wall did not require planning permission and considers that because the new access and parking would not be directly in front of the property, the contribution of the front garden to the visual amenities of the area would not be lost. I agree with that view and am satisfied that the proposal would preserve the character or appearance of the Conservation Area as a result.
12. The formation of the access would require the relocation of a highway lamp post which is currently in the highway verge, and possibly street signage. However such matters would be dealt with under the provisions of highway related legislation and would require separate consents.

Conclusion

13. For the reasons set out above, I find that based on the evidence before me in connection with this particular proposal, there would be no adverse effect on the safety and free flow of traffic on this part of the A20. The proposal would therefore comply with Policy SQ8 of the Council's Managing Development and the Environment Development Plan Document 2010 in that there would be no significant harm to highway safety, risk of crashes or traffic delays.
14. A condition requiring the development to be carried out in accordance with the approved plans is necessary in the interests of certainty. Conditions requiring details of the gradient of the crossover and provision of parking and turning areas before the access is first used, are necessary because of level differences and to ensure highway safety.
15. Accordingly, subject to the conditions set out above, the appeal should be allowed and planning permission granted.

Kim Bennett

INSPECTOR