

Appeal Decision

Site visit made on 14 November 2016

by Timothy C King (BA Hons) MRTPI

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

Decision date: 30 November 2016

Appeal Ref: APP/M2270/D/16/3157813

Little Court, Penshurst Road, Bidborough, Royal Tunbridge Wells, TN3 0XJ

- 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 Christopher Smith against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/503713/FULL, dated 25 April 2016, was refused by notice dated 5 August 2016.
 - The development proposed is '*a new driveway access*'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. In its Reason for Refusal the Council has omitted any mention of the proposal impacting on the Green Belt, within which the site falls. Nonetheless, in accordance with advice contained within the National Planning Policy Framework (the Framework), it is necessary that I address this matter.

Main Issues

3. The main issues in this case are:
 - i) whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework;
 - ii) the effect of the proposal on highway safety; and
 - iii) the effect of the proposal on the character and appearance of the area, with particular regard to the site's location within the designated High Weald Area of Outstanding Natural Beauty (AONB).

Reasons

Whether the proposal is inappropriate development in the Green Belt

4. Paragraph 90 of the National Planning Policy Framework (the Framework) indicates that certain engineering operations, which preserve the openness of the Green Belt, would not constitute inappropriate development. I consider that as this proposal is minor in nature and, other issues aside, the extent of the
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proposed works would not impact significantly on the Green Belt's openness, the proposal represents a case in point.

5. In the circumstances, I am satisfied that the proposal is not inappropriate development in the Green Belt for the purposes of the Framework and, given the other substantive issues involved, I do not intend to explore this matter further.

Highway safety

6. The appellant has explained that, rather than continue sharing an access to and from Penshurst Road with the adjoining Bidborough Court, it would be more convenient and preferable to create a new ingress/egress point close to the existing driveway. This access primarily serves Bidborough Court and Little Court is currently reached via a narrow offshoot to the right. This is in an unusual arrangement and I accept that it is not ideal. However, this benefit must be balanced with, amongst other things, any potential impact or the cost of vehicles entering and leaving the site via the proposed access to Little Court only.
7. At my site visit I noted that a number of vehicles travelling along Penshurst Road, a classified road, despite a 40mph speed limit, were seemingly exceeding this limit, and this is a likely consequence of the site being close to the point where the restriction is lifted to that of the national speed limit. However, notwithstanding this, the technical advice from Kent County Council, the Highway Authority, is that the appellant, in his submission, has not considered the required visibility splays. These should be related to the speed of the approaching traffic, although an impediment to such which the appellant has not identified is a tree which would lie within the splay to the left of the access point. Accordingly, as the appellant has failed to demonstrate that adequate splays can be provided, the highway authority indicated that it is unable to support the proposal.
8. In this general context the appellant's view that the road has low traffic volumes has not been substantiated by any empirical evidence. Further, whilst I accept the appellant's comment that the proposal would not necessarily give rise to additional traffic, appropriate visibility splays would still need to be provided to facilitate the new access point. Although the appellant considers that only a limited degree of existing vegetation would need to be removed to provide the necessary visibility splays I have seen no convincing diagrammatic detailing to suggest that this would be the case. From my findings, and in the absence of any technical evidence produced by the appellant to satisfy the highway authority's concerns, I see no reason to disagree with the advice given.
9. Accordingly, I conclude that the proposal could likely result in conditions prejudicial to the free flow of traffic which, due to prevailing traffic speeds would have potential implications for highway safety. This would be contrary to Policies TP4 and EN1 of the Council's Borough Local Plan (LP) which, amongst other things, serve to ensure that development does not give rise to such adverse circumstances.

Character and appearance

10. The boundary immediately to the side of Penshurst Road, beyond which is Little Court's curtilage, is heavily lined with trees and general heavy verdure. The proposed works would essentially cut through this vegetation so as to provide a driveway of useable and appropriate width and, as I have already mentioned, I am not satisfied that the degree of vegetation that would need to be removed would be insignificant in the circumstances. Accordingly, the proposal would impact on the streetscene and, moreover, I consider that this would also be detrimental to Policy CP4 of the Council's Core Strategy (CS) which aims to conserve and enhance the AONB. The proposal does not meet this fundamental objective. Indeed, its impact would have the opposite effect and, as it stands, is without any apparent mitigation.

11. I conclude that the proposal would be harmful to the character and appearance of the surrounding area, contrary to the aims of CS Policy CP4 and LP Policy EN1, which are the policies most applicable to this particular issue.

Other matters

12. I note the appellant's point that the proposal would afford the occupiers of Bidborough Court some privacy and have also had regard to the letter of support received from a resident thereto. However, neither of these points, either singularly or taken together, are sufficient to outweigh the harm I have identified would result from the proposal.

Conclusion

13. Although I have not found the proposal to be inappropriate development in the Green Belt for the purposes of the Framework, this appeal turns on the other substantive issues, and primarily on the important issue of highway safety. For the above reasons, and having had regard to all matters raised, the appeal is dismissed.

Timothy C King

INSPECTOR