
Appeal Decision

Site visit made on 19 December 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 4th January 2017

Appeal Ref: APP/M2270/W/16/3157385

**Victoria Cottage, Penshurst Road, Speldhurst, Royal Tunbridge Wells
TN3 0PQ**

- 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 Mrs S Nealon against the decision of Tunbridge Wells Borough Council.
 - The application Ref 15/510418/FULL, dated 10 December 2015, was refused by notice dated 5 April 2016.
 - The development proposed is erection of a two bedroom detached dwelling together with ancillary car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The Council's decision notice gives a single reason for refusal relating to sight lines at the access. However, the Parish Council and local residents have raised concerns about the effects of the proposed dwelling on the character and appearance of the area and the living conditions of occupants of the proposed dwelling, surrounding properties and Victoria Cottage. I therefore consider the main issues in this case are:
 - a) whether or not the proposed access would be prejudicial to highway safety;
 - b) the effect of the proposal on the character and appearance of the area;
 - c) the effect of the proposal on the living conditions of occupants of the proposed and surrounding dwellings in relation to privacy and noise and disturbance.

Reasons

Highway safety

3. Penshurst Road is a country road that passes through Speldhurst, providing a route between villages in rural Kent. It is not part of the county's primary or distributor road network. In the vicinity of Victoria Cottage it is just over 5m wide, has centre line hazard markings and is subject to a 30mph speed limit. Although it is within the built-up area of Speldhurst, it has no footways or verges and no street lighting. However, there are numerous accesses off it serving individual dwellings.
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4. The existing access to Victoria Cottage is poor. A narrow driveway runs along the side of the house towards the rear garden, but there is very limited space for a vehicle to turn and leave the site in a forward gear. At the time of my site visit there were no vehicles parked on the driveway, which was in a poor state of repair. However, there was evidence that vehicles may use the area of grass in front of the house either to park or to turn around. It was also suggested that vehicles can reverse onto the highway, which would be risky. At present the hedge along the shared boundary with The Hoe appears to run right up to the highway boundary, whilst the hedge enclosing The Hoe's frontage is immediately adjacent to the carriageway. The existing vegetation therefore significantly restricts visibility for anyone emerging from Victoria Cottage's driveway.
5. The plan submitted with the application shows that the drive would be widened near the access and the hedge along the frontage of Victoria Cottage would be set back to improve visibility when looking to the right on exiting the site. This would appear to provide a visibility splay of 2.4m by 8m, rather than the 15m suggested in the appellant's transport statement. The plan also shows a minor amendment on the left hand side with the removal of some vegetation. This would appear to permit a visibility splay of 2.4m by 3.4m. The neighbours at The Hoe have objected to this as they claim it would encroach onto their land. Whilst this is not a matter I can resolve in the context of this appeal, there is therefore a significant degree of uncertainty as to whether or not it would be possible to provide this minor improvement to this side of the existing access. With or without it, for any vehicle emerging from the access and looking to the left, visibility is highly restricted.
6. In responding to the application the highway authority has stated that it accepts the ethos and approach set out in Manual for Streets (MfS) and Manual for Streets 2 (MfS2). However, it did not specify its requirements for acceptable visibility splays to serve the proposed development. MfS suggests that the distance back from the carriageway (known as the 'X' distance) can be reduced from 2.4m to 2.0m in some lightly trafficked and slow-speed situations. MfS gives the other dimension of the visibility splay (known as the 'Y' distance) as 43m for a 30mph area and 25m where speeds are 20mph.
7. From the evidence presented, I accept that Penshurst Road is lightly trafficked, although the data was collected in August, which may not be entirely representative of the situation throughout the year. However, there was no substantiated evidence about the speed of traffic along this section of Penshurst Road, so it is reasonable to assume it will be in the region of 30mph. The lack of footway also means that anyone emerging from the access could put pedestrians at risk along this stretch of road. For these reasons I do not consider it would be appropriate to reduce the requirement for a 2.4m 'X' distance in this case. In the absence of evidence to demonstrate that the average speed of traffic is less than 30mph a 'Y' distance of 43m seems appropriate. Visibility splays of 2.4m by 43m would therefore be required to comply with the advice of MfS.
8. The improvements suggested by the appellant in this case fall woefully below these requirements. Added to this, there was no evidence that any significant improvement to the access could actually be achieved, as some of the land required to implement part of the scheme appears to lie outside the control of the appellant.

9. There was conflicting evidence of personal injury accidents in the locality, with no injuries between 2005 and 2013. However, a third party suggested that there had been a fatality in the past, although no other details of that incident were provided. In my view, neither of these factors would be a reason to set aside the requirement for an adequate visibility splay at the entrance to the appeal site.
10. I accept that the proposal would represent an improvement on the existing situation. However, it would be insufficient to make the access safe to serve the proposed dwelling in addition to Victoria Cottage. In my view, a significantly improved access would be needed to accommodate the increased number of movements that would be likely to take place as a result of providing of an additional dwelling on the site.
11. In assessing the proposal I have had regard to two the other appeal decisions which have been drawn to my attention. In the case of Cranford¹, a development opposite the appeal site, I note that full standard visibility splays sought by the highway authority at that time, (2.4m by 70m) could not be achieved. I also accept that visibility standards were more stringent in 2003, which was prior to the publication of MfS. The Inspector acknowledged the presence of other accesses that appeared to be below the standards normally required at the time. He also recognised the need to balance visibility requirements with the environmental damage that could be caused by the loss of roadside vegetation. His decision letter refers to discussions at the Hearing about ways of addressing the issue which could have been secured by conditions. However, he dismissed the appeal for other reasons. I am therefore unable to make any meaningful comparisons between the standards that might have been applied to that scheme and the appeal proposal, which I have determined on its individual planning merits.
12. The more recent decision related to a proposal in Horsmonden², where the Inspector dismissed an appeal on the basis that the access would have been severely substandard. I note that there are significant differences between that site and the proposal before me. In particular it was next to the Village Hall, close to a school and in an area where there was on-street parking. The Inspector assessed the matter having regard to the specific circumstances of that site, which were unique to that location. However, there was nothing in that decision that caused me to take the view that an access that fails to provide adequate visibility splays could be considered acceptable here. On the contrary, what is required is a consideration of the individual circumstances of each case having regard to national and local guidance. This is what I have carried out in relation to the appeal proposal and have found the proposed improvements would be significantly below the recommended standards.
13. Taking all these factors into consideration, I conclude that the proposal would be prejudicial to highway safety and would fail to comply with Policy TP4 of the Tunbridge Wells Borough Local Plan (Local Plan) which requires all new development to have a safely located access where adequate visibility exists, or could be created. It would also fail to comply with the National Planning Policy Framework's (the Framework) advice of ensuring that safe and suitable access to development sites can be achieved for all people.

¹ APP/M2270/A/03/1122496

² APP/M2270/W/15/3028160

Character and appearance

14. The appeal proposal is an amendment following the Council's refusal of a scheme for a larger dwelling³. The proposed chalet bungalow would be located towards the back of the site, only 2.7m from the rear boundary. A large area of hard-surfacing would replace parts of the existing rear garden in order to provide four parking spaces, two for the proposed dwelling and two for Victoria Cottage. Whilst the use of pea shingle and grasscrete would reduce the visual impact of these features, it would not alter their function as parking and turning areas rather than private amenity space.
15. The proposed shared driveway would be squeezed between the existing side and rear extension of Victoria Cottage and the boundary with The Hoe. Although the area at the rear of the site appears to have sufficient space to accommodate the dwelling, in my view, this highly constrained access combined with the space required for parking and manoeuvring vehicles would make the site as a whole feel cramped. It would also dramatically decrease the size of the garden area associated with Victoria Cottage. Its residual garden would be both small and an awkward shape, which would be at odds with the pattern of development elsewhere in the village.
16. Victoria Cottage is part of a group of dwellings on the northern side of Penshurst Road and to the west of Northfields that are sited close to the road. There is a distinct change in character to the west of Redcot where the houses are set much further back from the road and occupy more spacious plots. The proposed dwelling would be approximately in line with The Beeches and therefore in the transitional area between these two layouts. In this context its small plot size and backland location would not integrate effectively with the surrounding development.
17. The proposed dwelling would also be unusual within the village in not having direct road frontage. I acknowledge that it would not be prominent in the street scene. However, it would be seen from the street along the narrow driveway from where it would appear to be an awkward, backland development that would be out of character with the prevailing pattern of development in the village. I do not consider it can be compared with the development that has taken place at Cranford, which related to a proposal on a much larger plot.
18. I therefore conclude that the proposal would be harmful to the character and appearance of the area, contrary to Policy EN1 of the Local Plan which requires the design of new development to respect the context of the site, including having regard to the scale, layout and landscaping of the proposal. The proposal would also be contrary to Core Policy 14 of the Core Strategy⁴ which, amongst other things, advises that development in villages will be restricted to sites within the Limits to Built Development and should be appropriate to the character of the settlement.

Living conditions

a) Privacy of neighbours

19. The proposed chalet bungalow would be surrounded by other residential development and would share its boundaries with seven houses. However, it

³ Tunbridge Wells Ref: TW/15/501044/FULL

⁴ Tunbridge Wells Borough Local Development Framework - Core Strategy Development Plan Document

would be predominantly single storey and therefore opportunities for overlooking from it towards the habitable rooms and gardens of these adjacent properties would be limited. The dormer window in the rear elevation would look out on the rear gardens of Nos 13-17 St Mary's Lane. However, these houses have long gardens and there is extensive vegetation along the shared boundary. I am therefore satisfied that there would be no unacceptable overlooking from the proposed dwelling that would adversely affect the living conditions of adjoining occupiers.

b) Privacy of occupiers of proposed dwelling

20. The first floor windows of Victoria Cottage and the first floor windows and rear dormer window of Redcot would overlook the proposed dwelling. Not only would they be able to see into the dwelling through the proposed patio doors, but there would also be direct overlooking of its small garden, which would be to the side of the dwelling and close to the boundary with The Beeches. This would significantly restrict the level of privacy for future occupiers in both the house and garden of the proposed dwelling.

c) Noise and disturbance of neighbours

21. The extension of the driveway and the location of four parking spaces in the area that is currently the rear garden of Victoria Cottage would bring vehicles closer to the rear gardens of The Hoe, Redcot and The Beeches. The comings and goings from two dwellings would be likely to result in some additional noise, disturbance and occasional light pollution for the occupants of these adjacent properties. However, the proposal includes the erection of fences to mitigate potential harm. I am therefore not persuaded that the proposal would adversely affect the living conditions of neighbours to such an extent as to justify rejecting the scheme.

d) Noise and disturbance for occupants of Victoria Cottage

22. Of greater concern is the proximity of the extended driveway to Victoria Cottage. It would be very close to the eastern elevation of the existing extension which includes two windows and a door. I am not aware that the proposal includes any alterations to the existing dwelling. Although the number of movements along the driveway would be small, the enclosed nature of the access would cause their effect to be particularly noticeable, resulting in visual intrusion as well as noise, disturbance and possibly pollution.
23. Drawing these matters together, I am satisfied that the occupants of properties surrounding Victoria Cottage would not be adversely affected by the proposal. However, I conclude that the proposal would be harmful to the living conditions of occupants of Victoria Cottage arising from unacceptable noise and disturbance. In addition, I conclude that the proposed dwelling would provide unsatisfactory living conditions for future occupants arising from lack of privacy in the house and garden.
24. The proposal as a whole would therefore fail to comply with the requirements of EN1 of the Local Plan, which includes requirements to ensure that the amenity of neighbours is not unduly harmed and to secure adequate amenity for future occupiers of development. It would also conflict with the core principle of the Framework to provide an adequate standard of amenity for all existing and future occupants of land and buildings.

Planning Balance and Conclusions

25. The Council acknowledges that it is currently unable to demonstrate a five-year housing land supply. Where this is the case paragraph 49 of the Framework is clear that relevant policies for the supply of housing should be considered out-of-date. From the evidence before me it appears that Core Policy 6 and Point 1 of Core Policy 14 of the Core Strategy, appear to fall into this category. However, the appeal site lies within the Limits to Built Development of Speldhurst, where Policy H5 of the Tunbridge Wells Local Plan is supportive of development such as minor infilling. Consequently, there is no objection in principle to a residential development on the site.
26. Nevertheless, other policies that are relevant to this case can be attributed weight insofar as they are consistent with the Framework, as required by paragraph 215. I consider Policies EN1 and TP4 of the Local Plan and Point 2 of Core Policy 14, are consistent with the aims of the Framework of seeking safe and suitable access to development and promoting high quality design that responds to local character. I have therefore given them full weight in my determination of the appeal.
27. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. In assessing the current scheme I have, therefore, adopted the approach set out in paragraph 14 of the Framework. This advises that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when considered against the policies in the Framework taken as a whole.
28. The proposal would provide an additional home, which would contribute in a small way to addressing the district's housing needs. It would do so within the Limits to Built Development of Speldhurst, which has access to a limited range of local services and facilities and as such can be considered to be a sustainable location. As a small home, it would be attractive to either a first time buyer or an older purchaser wishing to downsize. These social benefits are matters to which I attach moderate weight. The economic benefits of the scheme would primarily relate to the employment created during construction. As these would be limited and short term they are benefits of little weight in the overall balance.
29. However, weighed against these benefits I have concluded that the proposal would be prejudicial to highway safety, a matter to which I attach significant weight. In environmental terms, I have concluded that the proposal would be harmful to the character and appearance of the area, a matter to which I also attach significant weight. In addition, I have found that the proposal would be harmful to the living conditions of the occupants of the proposed dwelling and Victoria Cottage. These are matters to which I attach moderate weight.
30. Taking all these factors into account, I conclude that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Furthermore, there are no material considerations that outweigh the conflict with the development plan.

31. This leads me to conclude that the proposal would not be a sustainable development. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR