

Appeal Decision

Site visit made on 13 February 2017

by Cullum J A Parker BA(Hons) MA MRTPI IHBC

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

Decision date: 3rd March 2017

Appeal Ref: APP/M2270/D/17/3166376

2 Gills Green Cottages, Gills Green, Hawkhurst, Cranbrook, TN18 5EP

- 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 Malcolm Hayes against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/06253/FULL, dated 18 August 2016, was refused by notice dated 24 October 2016.
 - The development proposed is '*creation of driveway with associated dropped kerb*'.
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Decision

1. The appeal is allowed and planning permission is granted for creation of driveway with associated dropped kerb at 2 Gill Green Cottages, Gills Green, Hawkhurst, Cranbrook, TN18 5EP in accordance with the terms of the application, Ref 16/06253/FULL, dated 18 August 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: Proposed Driveway Plan, Proposed front elevations, Plan showing downpipe arrangement, plan showing proposed driveway in relation to new access road and current driveways, Street elevation showing existing driveways, Plan showing visibility splays, and Proposed driveway side elevation

Procedural Matters

2. The description used on the application form is provided within Appendix A of this decision. It contains both a description of the works sought and the appellant's justification for them. For clarity, I have used the description of proposed development on the Council's decision notice, as this reflects that provided on the application form, albeit in a more succinct form.

Main Issue

3. The main issue is the effect of the proposed development on the safety of pedestrians, cyclists, drivers and other highway users of the A229 (Cranbrook Road).
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Reasons

4. The appeal site comprises a semi-detached property that faces onto the A229, Cranbrook Road. On the area of highway outside this property are two bus stops on either side of the road. The road itself has a north to south slope, with roughly 47 metres to the south the road curves to the south west. I saw during my site inspection that the speed limit on this stretch of road appears to be 40 mile per hour – though I note that both the local planning authority (LPA) and the local highways authority (LHA) consider this to be a busy and fast flowing road. I also saw that there are some other properties, including that directly to the north (at Clayton Cottage), which benefit from off road parking and access arrangements not dissimilar to that sought in this instance.
5. The appeal scheme seeks the creation of a single parking bay with dropped kerb providing access off Cranbrook Road. The appellant has indicated that the size of the bay and cross-over would conform to the minimum standard set out by the LHA, and with no evidence to the contrary I see no reason not to concur. The appellant has also provided evidence in the form of sight visibility lines and accident numbers, which neither the LPA or the LHA have provided any detailed response to, or contrary evidence. As such, there is no indication that these should not be taken at face value.
6. The LPA have directed me to Policy TP4 of the *Tunbridge Wells Borough Local Plan 2006* (TWBLP), which they consider the proposal would conflict with; in particular criteria 2) and 4). The policy requires all criteria to be met in order to satisfy the policy. In this instance, the proposal is able to provide long distance visibility splays in either direction along this stretch of 40mph road. It would therefore meet the criterion 2).
7. In terms of criterion 4); this refers to the provision of an additional access or the intensification of use of an existing access directly onto a Primary or Secondary route outside the Limits to Built Development. The proposal in this case does not seek an 'additional' access onto the highway. The relevance of this criterion is, therefore, limited to the appeal scheme which seeks a new access, not an additional one. What is more, even if it were interpreted that additional could include a 'new' access, and the policy is not as clear as it could be, when one looks at the supporting paragraphs, including 11.30, it is clear that the previous Kent (1996) and Kent & Medway (2006) Structure Plans (now no longer part of the adopted development plan having been revoked) sought that '*new accesses will be refused where an increased risk of accidents or significant traffic delays may result*'. Whilst this is not part of the Policy itself, it is clear, when read plainly, that the basis of Policy TP4 was to refuse developments where they posed a risk to highway safety.
8. However, in this case, the LPA and LHA have provided no cogent evidence as to why the proposal here would result in an unacceptable risk to highway safety or the users of the public highway. No traffic accident reports have been submitted, no reference to the speed limit within the vicinity of the appeal site is given nor what braking distances might be, nor any details of what sight lines would be required, or indeed why bus stops and no on street parking restrictions are any worse or better ways to manage the road than removing a vehicle parked on the public highway.
9. The justification for the access to the development of 6 houses to the north (TW/15/500780) provided in the officer's report, being further to the north and

therefore 'reduced to an acceptable level' are unsubstantiated by any written evidence. The LHA refer to an earlier refused application TW/11/0372 but does not provide any detailed reasons as to how the size of the parking space, lack of turning space and 'inadequate' visibility are unacceptable in this case. In the absence of any justification as to why these factors in the proposed scheme are inadequate, and given my findings above, I do not consider that they are unacceptable on the basis of the evidence before me.

10. I therefore conclude that the proposed development would not result in unacceptable harm to the safety of pedestrians, cyclists, drivers and other highway users of this part of the A229 (Cranbrook Road). It would therefore accord with Policy TP4 of the TWBLP, the aims of which I have aforesaid. It would also accord with the Policies of the *National Planning Policy Framework* (the Framework) which include that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
11. In terms of conditions, I have taken into account Paragraph 206 of the Framework and the national Planning Practice Guidance in terms of the use of planning conditions. A condition requiring the proposal to be carried out in accordance with the submitted drawings is necessary in this case to provide certainty.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed.

Cullum J A Parker

INSPECTOR

Appendix A – Application Form description

- i) *Creation of a driveway for one car, significantly to assist the safety of my 85 year-old, partially-sighted mother who now lives with us. Our proposal conforms to the minimum size requirements as laid out in the KCC document, "Vehicle and Crossing – Guidance and Self-Assessment" (February 2016).*
- ii) *The proposed driveway would be a straight reverse on, drive off scenario, identical to our neighbour's driveway just one metre away.*
- iii) *To avoid additional drainage of water from the driveway on to the highway we have remodelled the guttering and downpipe, which previously took water from the roof covering both properties via a downpipe draining directly on to next door's driveway and into the road (this is replicated in neighbouring properties). The guttering flow to the new downpipe leads our rainwater drainage into a shrub border, thus reducing the water reaching the highway.*
- iv) *The previous owners were refused permission largely on the basis of visibility from the driveway up and down the road and the potential for an additional hazard caused by access. However, it is difficult to argue that the process of parking in a driveway (less than one minute) constitutes a hazard to traffic greater than the process of disembarking family, shopping and elderly mother, which can take many minutes; there are no parking restrictions outside our property that prevent us from parking alongside the pavement. In April 2015, planning permission was granted for a full access road a mere 25 yards to the north of our property, serving 6 new homes and new parking for two existing homes (16 parking spaces), with limited turning space that will, we believe, necessitate refuse lorries reversing from the main road to gain access. Whilst historic driveways are no mitigation for new driveways, we believe that the permission for vehicles of 8 homes within such a short distance strengthens the case for permission to be granted for our home to have a driveway.*
- v) *Whilst our stretch of road may be perceived as hazardous, it is ironic that approximately 200 metres further down on the straight stretch no fewer than 7 accidents have occurred in the three years we have lived at our address, 5 of which have resulted in damage to the same sections of fence. Others, including one fatality, have occurred just over half a mile north of our property. In contrast, on no occasion has any accident occurred within 200 metres of our property in spite of three years of almost constant builders' vehicles outside our property and a little further up with the construction of 7 new homes.*
- vi) *We believe that the granting of planning permission for off-road parking will reduce the hazard on this stretch of road by removing the need to park on the road for unpacking our vehicle and disembarking passengers.*
- vii) *Work has not been started on the driveway, although an area was dug out to enable a safe area for rubbish skips during building works to our property last year. We now wish to use that area for parking.*