

Appeal Decision

Site visit made on 27 February 2017

by Chris Couper BA (Hons) DiP TP MRTPI

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

Decision date: 3 March 2017

Appeal Ref: APP/C1760/D/16/3163983

21 London Road, Andover Down, SP11 6LJ

- 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 Tony Duncan against the decision of Test Valley Borough Council.
 - The application ref: 16/01611/FULLN, dated 4 July 2016, was refused by notice dated 26 August 2016.
 - The development proposed is described as 'moving of single pedestrian gate and replacement with new fence above existing wall'.
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Decision

1. The appeal is allowed and planning permission is granted for the moving of a single pedestrian gate and replacement with a new fence above an existing wall at 21 London Road, Andover Down, SP11 6LJ in accordance with the terms of the application, Ref 16/01611/FULLN, dated 4 July 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: site location plan at 1:1250 scale, proposed and existing front elevation plan at 1:100 scale, existing layout plan at 1:100 scale, and proposed layout plan at 1:100 scale.

Background and Procedural Matters

2. The application was refused by the Council on the grounds that the repositioning of the front boundary would allow a vehicle to be parked perpendicular to the highway, thus encouraging reversing manoeuvres which would be hazardous to highway safety and the free flow of traffic. The application followed a previous scheme (ref: 15/01604/FULLN) for the replacement of the single pedestrian gate with a double gate to allow for a new widened car access and a new fence above the wall. That scheme was refused on the grounds that it would not provide sufficient visibility for safe egress from the site, and would therefore be likely to interfere with the free flow of traffic on London Road and reduce the safety of road users.

3. However, unlike the previous scheme, this proposal would not involve the creation of a vehicular access. That is made clear at section 6 of the application form, as well as at paragraphs 6.3.12 and 6.3.14 of the Statement of Case. No new vehicular access is depicted on the drawings. The appellant sets out at paragraphs 6.3.5 and 6.3.6 that he is not seeking a parking space, but that his objective is to address noise issues, protect his dogs and highway users, and to create a design that would potentially be capable of modification at a later date. To that end, he states that when his lease on an adjacent garage finishes, and after highway improvements to the B3400 have been undertaken, he may submit a further application to create an access in this location.

Main Issue

4. The main issue is the effect of the proposal on the safety and convenience of users of the public highway.

Reasons

5. I observed on my visit that there is a layby on the B3400 in this location, which is depicted on the drawings. I note that the proposed repositioning of part of the boundary would create some additional space to the carriageway. By making use of part of the layby, that would be sufficient for a typical car to be parked perpendicular to the highway. However, that arrangement would involve the creation of a new access onto a classified road. This scheme does not seek consent for such an access, for which planning permission would be required.
6. Consequently, I am satisfied that allowing the appeal would not authorise vehicles to be parked perpendicular to the highway in this location, and that it would not therefore encourage reversing manoeuvres on to the London Road, or interfere with the free flow of traffic on it.
7. The Council raises no objection to the scheme's impact on the character and appearance of the area. Given the range of local boundary treatment, including other timber fences, I have no reason to disagree with that assessment.
8. Policy T1 of the Test Valley Borough Revised Local Plan (2011-2029) 2016 states that development will be permitted if, amongst other things, it does not have an adverse impact on the function, safety, and character of, and accessibility to, the local or strategic highway network. For the above reasons the scheme would not conflict with that policy, and the appeal will be allowed.
9. I have considered the Council's suggested conditions against the tests in the National Planning Policy Framework. In addition to the standard time limit condition, as it provides certainty, I have imposed a condition specifying the relevant drawings. The Council has also suggested a condition requiring that the layby be surfaced with non-migratory material prior to its first use as an access. However, given my findings that no access would be created, that condition is unnecessary. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR