

## Appeal Decision

Site visit made on 14 March 2017

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

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

**Decision date: 10 April 2017**

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**Appeal Ref: APP/L3625/W/16/3158560**

**Ashleigh, High Road, Chipstead CR5 3QN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Aventier Land Bank against the decision of Reigate & Banstead Borough Council.
  - The application Ref 16/00780/OUT, dated 5 April 2016, was approved on 23 June 2016 and outline planning permission was granted subject to conditions.
  - The development permitted is the demolition of existing dwelling and replacement with 1 detached 5-bedroom dwelling.
  - The condition in dispute is No 6 which states that: The development hereby approved shall not be first occupied unless and until the proposed vehicular modified access to High Road has been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction measured from 0.6m above the road surface.
  - The reason given for the condition is: The above condition is required in order that the development should not prejudice highway safety nor cause inconvenience to other highway users with regards Policy CS10 of the adopted Reigate and Banstead Core Strategy 2014, Policy Mo5 of the Reigate and Banstead Borough Local Plan 2005 and the National Planning Policy Framework 2012.
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### Decision

1. The appeal is allowed and the outline planning permission Ref 16/00780/OUT for the demolition of existing dwelling and replacement with 1 detached 5-bedroom dwelling at Ashleigh, High Road, Chipstead CR5 3QN, granted on 23 June 2016 by Reigate & Banstead Borough Council, is varied by deleting condition No 6.

### Application for costs

2. An application for costs was made by Reigate & Banstead Borough Council against Aventier Land Bank. This application is the subject of a separate Decision.

### Background and Main Issue

3. Planning permission for the replacement of a 3-bedroom house with a 5-bedroom house was granted with conditions, one of which concerns the widening of the driveway and access onto High Road together with visibility splays. The Council considers the condition is critical in the interests of highway safety, whereas the appellant contends that as the proposals clearly show the access and the permission requires the development to be carried out
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in accordance with the approved plans, the condition is unnecessary and that its omission would not prejudice highway safety.

4. The main issue is therefore whether the condition is necessary having regard to the safety and convenience of those using High Road.

### **Reasons**

5. The entrance to the driveway to the house is through the hedge on the front boundary and alongside the hedge which runs along the side boundary. The material effect of the condition is to secure the increased width of the driveway to the house in the proposal, which would be cut into the existing, splayed hedge on the front boundary, and to retain the reduced splay clear of obstructions greater than 600mm above ground level.
6. The existing drive and the opening onto High Road would be widened from around 3m to around 4.1m, presumably in order to allow two cars to pass simultaneously through the opening. Whilst this may be desirable, given that the consent concerns a replacement house where the number of occupants would not be significantly increased, it is unlikely that the risk of two cars passing at the same time would be increased to the degree where their isolation would be required to make the development acceptable in planning terms. There is no evidence that the width of the existing opening and drive has caused accidents, and it appeared to me that the openings to the drives in the neighbouring plots were no wider than required for one car to pass at a time. I therefore conclude that this element of the condition is unnecessary.
7. There is no evidence that the existing splay was a condition of any previous consent, and no evidence that it is required for cars to access High Road safely. As the development is to replace the existing house with only a marginal increase in the potential number of occupants, there is no evidence to justify the necessity of the retention of the splay as a condition of the permission to allow cars safe passage onto High Road.
8. Moreover, I noted on my site visit that the road is narrow and has a number of bends which tends to slow the speed of the relatively light traffic and which makes overtaking difficult. While I appreciate that traffic flow is likely to vary throughout the day, in the circumstances above, the occupants are able to move out slightly between long breaks in traffic. This significantly improves the conditions for emerging vehicles. The road contains numerous detached houses, where driveway access onto the road is a common feature which suggests that drivers would reasonably anticipate the risk of vehicles emerging from driveways.
9. I did not see any pedestrians using the road during my site visit, and the predominantly residential character of the surrounding area, its distance from services and facilities, and the lack of a footway suggests that pedestrian traffic is very light, and unlikely to be prejudiced by the omission of the condition. I note that in any event there is another condition which addresses the intervisibility of pedestrians at the access onto the road.
10. I therefore conclude that, having regard to those using High Road, that condition No 6 is unnecessary. The Council has acknowledged that Policy CS10 of the Reigate and Banstead Core Strategy 2014 is not relevant to the condition. The development without the condition would not result in conflict

between the development and Policy Mo5 of the Reigate and Banstead Borough Local Plan 2005. This Policy seeks to ensure that arrangements for access are appropriate to the type of development proposed and the area in which it is located and do not aggravate traffic congestion, accident potential or create environmental disturbance. Nor would it result in any severe residual, cumulative impacts as described by paragraph 32 of the National Planning Policy Framework.

**Conclusion**

11. For the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

*Patrick Whelan*

INSPECTOR