The Planning Inspectorate

Appeal Decision

Site visit made on 19 April 2017

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 23rd May 2017

Appeal Ref: APP/D5120/D/17/3168267
119 Penhill Road, Bexley DA5 3EU

- 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 Nicola Gardner against the decision of the Council of the London Borough of Bexley.
- The application Ref 16/02654/FUL, dated 23 October 2016, was refused by notice dated 24 January 2017.
- The development proposed is a vehicular access.

Decision

1. The appeal is allowed and planning permission is granted for a vehicular access at 119 Penhill Road, Bexley, DA5 3EU, in accordance with the terms of the application Ref 16/02654/FUL, dated 23 October 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: Location plan; Existing Block Plan; Proposed Plan.

   3) The use of the land for vehicle parking shall not be commenced until the area has been laid out, surfaced and drained in accordance with details first submitted to and approved in writing by the local planning authority, and shall be permanently maintained and available for such use thereafter.

   4) Before the parking area is first brought into use the vehicle access shall be provided with that part of 2.4m x 2.4m visibility splays that can be accommodated within the site and shall thereafter be maintained free of obstructions to visibility between heights of 0.6m and 2.0m above the level of the adjoining footway.

Preliminary matter

2. The proposed development was described on the planning application form as 'a drop kerb to be installed outside of residence'. The Council's decision notice describes the proposal more precisely as a 'vehicular access'. I have adopted this more accurate description in the heading above and in my decision.

Main Issue

3. The main issue is the effect on highway safety of formation and use of the proposed access.

Reasons

4. Penhill Road runs through an outer suburban area and is lined on both sides by houses of varied types. No.119 is a two-storey house that forms one of the middle pair of a short terrace of four.

5. The house has a small front garden, separated from the footway by a timber fence. It is proposed to pave the garden to create a parking space and to open up the frontage, with the formation of a dropped kerb to allow vehicular access. Because Penhill Road is designated as a London Distributor Road, forming part of the A221, planning permission is required for the proposed access.

6. Saved Policy G18 of the Bexley Unitary Development Plan 2004 ('UDP') states that the Council will manage and improve the borough's network of roads, according to their function in the road hierarchy, within which London Distributor Roads provide the second tier. In support of this policy, UDP Design and Development Control Guideline 5 sets out criteria under which limited access to London Distributor Roads will be permitted.

7. The Council considers that the first criterion is not met, because the property has an existing garage at the foot of the rear garden, accessed via an unmade track. However, the seriously overgrown condition of both arms of this track means that it could only be opened again with some considerable difficulty, while a superficial examination suggests that the condition of the surface might need significant improvement. Both of these operations would be likely to demand the collaboration of a number of parties, not least the owners of the land and of adjoining properties.

8. If the track could be re-instated, I consider that the tight space should be sufficient to allow access for a normal car, and that the appellant's reservations about the size and condition of the existing concrete garage could be overcome by its replacement or removal. However, for practical purposes, I agree with the appellant that the rear access should not be regarded as currently available. Furthermore, I share the appellant's concern that access to the house across the rear garden and up a steep flight of steps would not be practical for transferring a child in a pram or pushchair.

9. The other criteria relate to the configuration and location of the proposed provision. There is no dispute that the area available within the plot would be adequate to accommodate a normal-sized vehicle, but not for turning space to allow access and egress in a forward gear. However, as pointed out by the appellant, it is clear that the great majority of houses along this stretch of Penhill Road have formed parking areas in their front garden, and that few if any of these have sufficient space to allow for turning. Some of the parking areas would accommodate several cars. It is also notable that almost all of the frontages benefit from a dropped kerb, suggesting some degree of acceptance by the Council's highway function, although perhaps installed under an earlier policy regime.

10. The detailed guideline relied on by the Council is itself now of some age, and it is not clear that it adequately reflects more recent policy development, in particular the publication of the *Manual for Streets* in 2007 and the *Manual for Streets 2* in 2010. The former document recommended reconsideration of former onerous restrictions on direct frontage access[1], while the latter confirmed that the earlier advice could apply to all urban roads and that direct frontage access is unlikely to have significant disbenefits in road safety terms.[2]

11. I appreciate that each case must be considered on its own terms and that in this instance the Council's specialist considers that the configuration of the access and the proximity of nearby junctions could result in hazards to pedestrian and driver safety. But the width of the plot would allow reasonable visibility of passing pedestrians, even if the full desired standard of 2.4m each side could not be achieved. The wide footway would also allow clear opportunity to assess traffic in both directions, including any at the two junctions, before emerging onto the carriageway. No specific detail has been provided of the Council's concern on this point.

12. Because of the established context, I consider that drivers using the road should be well aware of the number of private accesses and the potential for a vehicle to need to emerge onto the highway. The addition of a further such access would make only a minimal difference to the public safety risk. By contrast, there would be a clear safety benefit to the appellant and her family, by allowing a car to be loaded and unloaded off the highway in a secure environment. The alternative of parking a car at the kerbside in front of the property, where there are no parking restrictions in place, would appear to be more hazardous to safe traffic conditions, particularly for cyclists.

13. For these reasons, I consider that the particular circumstances of this case suggest that the formation and use of the proposed access would not be hazardous to highway safety, and that any conflict with the detail of UDP Guideline 5 can be overcome. The Council raises no objection on grounds of character and appearance or effect on neighbours, with which I concur.

Conditions

14. In addition to standard conditions on commencement time and compliance with the approved plans, the Council has requested that two other conditions be imposed, to require approval of the details of the layout and drainage of the proposed access and its subsequent retention, and also to secure the best available visibility for pedestrians. I agree that all of these conditions are reasonable and necessary.

Conclusion

15. For the reasons set out above, and having taken account of all representations made, I conclude that the appeal should be allowed and planning permission granted subject to conditions.

Brendan Lyons

INSPECTOR

[1] Section 7.9
[2] Paragraph 9.10.5