
Appeal Decisions

Site visit made on 17 June 2019

by Andrew Bremford BSc (Hons) MRICS

an Inspector appointed by the Secretary of State

Decision date: 11 July 2019

Appeal Ref: APP/Y9507/W/19/3226789

Land South of Green Street, East Worldham, Bordon GU35 9NN

- 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 Leonard Black against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/00346/FUL, dated 23 January 2019, was refused by notice dated 26 March 2019.
 - The development proposed is new vehicular access and grassed tiled turning area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the application was determined the Authority has now adopted the South Downs Local Plan 2014-33 (SDLP). Given the form and wording of Policy SD19 has not changed and it was clearly before the appeal parties from the outset, then the change in status of the SDLP has not caused any injustice.

Main Issue

3. The main issue is the effect of the proposed vehicular access on highway safety.

Reasons

4. The appeal site is a reasonably small fenced enclosure on the southern side of Green Street (the B3004) between East Worldham and Kingsley. The road is subject to a speed limit of 60mph. There is a grass verge approximately 5 metres wide along the edge of the highway adjacent to the site. Beyond the verge there is some sporadic foliage alongside a post and wire fence delineating the site boundary.
5. The proposal is to form a new vehicular access from the site onto the highway. It would cross the grass verge and would be around 4 metres wide with a splay widening to approximately 7 metres where it adjoins the highway.
6. In the interest of highway safety suitable visibility splays should be provided at the junction of the access with the highway. The appellant has sought to demonstrate this on the submitted plans, namely the 'Site Plan' and the 'Block Plan and Tree Survey'. The plans show the sight lines looking east and west from a point 2.4 metres back from the edge of the highway (referred to as the 'X' distance) at the position of the proposed vehicular access.

7. The aforementioned plans demonstrate that looking east from the proposed access there is an uninterrupted sight line to at least 160 metres (referred to as the 'Y' distance). However, they indicate that an uninterrupted sight line may not be available looking in the opposite direction. My attention is drawn to where the sight line is shown aligned between some trees beyond the western boundary of the site. The trees are numbered '13', '14' and '15' on the plans.
8. At my site visit I noted that these trees, in addition to other general foliage in the same area, interrupt the line of sight shown on the plans. Therefore, a suitable visibility splay was not present when looking west from the junction of the proposed vehicular access with the highway. The uninterrupted sight line extended for approximately 38 metres from a point 2.4 metres back from the edge of the highway at the position of the proposed vehicular access, hence significantly less than the minimum distance required.
9. The trees that interrupt the line of sight are within the parcel of land between the appeal site and a minor road junction 70 metres west of the proposed vehicular access: the land is shown highlighted in 'yellow' on the plan in appendix JPC4 of the appellant's statement of case. The appellant states that the required sight lines exist and are incorporated within the 'yellow' land, for which the Highway Authority have a responsibility to maintain, as highway land, in regard to visibility splays at the minor road junction. The appellant argues that if maintenance was carried out the visibility splays from the appeal site would be achieved. Nonetheless, as I have noted above, the presence of the trees shows that they have not been managed/removed in order to maintain visibility by the private contractor engaged by the Highway Authority. The Highway Authority also dispute the claim made that the land is now part of the highway. Moreover, the Highway Authority has been clear that although there may have been some maintenance works in the past, there is no guarantee that this would be the case in the future.
10. It is not for me, under a section 78 appeal, to determine use of land or who has responsibility for it. I have considered whether I could impose a condition requiring the visibility splay to be provided and maintained. However, given the dispute, I cannot be satisfied that if I did impose a condition it would be reasonable, as it may cross third party land, or it may not be enforceable for the same reason. Given the importance that must be given to road safety, this is not an option I can consider. Against this background I find that the necessary visibility splay cannot be secured.
11. I note the Authority in their statement refer to new Highway Authority guidance that requires new accesses in circumstances such as this to provide a visibility splay where the 'Y' distance is 215 metres: previous guidance required a distance of 160 metres. However, I also note the appellant disputes that this longer distance is required in this instance. Nonetheless, the sight line looking west is interrupted by trees and foliage at a distance less than should be provided having regard to both the earlier and new Highway Authority guidance. Consequently, drivers waiting to turn out of the proposed access on to Green Street would not have adequate views of oncoming vehicles to be able to pull out safely.
12. There is reference to a fall-back position whereby the appellant would park on the highway verge if he could not secure the desired access. Even if this were

to occur it would not justify me granting planning permission due to the serious failings of an inadequate access due to the lack of suitable visibility splays.

13. For these reasons, therefore, I consider that the proposal would result in significant harm to highway safety. Consequently, in this regard, it would not accord with the relevant highway safety aims of Policy CP31 of the East Hampshire District Local Plan: Joint Core Strategy 2014; Policy SD19 of the SDLP, and chapter 9 of the National Planning Policy Framework (the Framework), which set out to ensure development proposals do not unacceptably impact on highway safety.

Conclusion

14. For the reasons set out above I conclude that the appeal should be dismissed.

Andrew Bremford

INSPECTOR