



Appeal Decision

Site visit made on 17 July 2019

by A McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2019

Appeal Ref: APP/G5180/W/19/3219732

Roadway adjacent to Manor Beech, Manor Park, Chislehurst BR7 5QD

- 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 Manor Park Chislehurst Road Trust against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/18/03492/FULL1, dated 30 July 2018, was refused by notice dated 11 October 2018.
 - The development proposed is automatic vehicular access/egress gates and piers.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development on the application form which read '*Entrance gate and piers*' was amended by the Council to '*Automatic vehicular access/egress gates and piers*'. Based on what I have seen and read, the Council's description more accurately reflects the nature of the proposal. As such, I find it reasonable and appropriate to refer to that description in this Decision.
3. A previous planning approval in 2002, ref: 02/00194, for entrance gates and piers in Manor Park is referred to by the appellant. I had regard to this as a material consideration. The approved scheme was not started and this proposal is not a resubmission of it. Furthermore, I note that other similar gates are in place in the local area. Notwithstanding these other considerations, I must assess this appeal proposal principally on its own merits and circumstances and confirm that I have done so. However, as I do not have full details of the other schemes, I have given them limited weight in my overall assessment of the proposal.
4. Since the Council determined the application, it has adopted the Bromley Local Plan (LP). Accordingly, the LP now carries full weight as part of the development plan and I have given such weight to its policies referred to in the submissions of both parties and reasons for refusal. The Bromley Unitary Development Plan and its policies no longer have such weight and are no longer deemed valid in the determination of this proposal. Nonetheless, these policies remain as a material consideration as they were valid when the Council made its decision.
5. A request was received from the occupiers of 'Manor Beech' to view the site of the proposal from their property in order to assess its impact on their amenity in terms of noise and disturbance. As such, I confirm I have viewed the proposed site from the rear garden of 'Manor Beech' solely for that purpose as part of my visit to the site and area and the merits of the case were not discussed with the occupiers of the property. Accordingly, I have made my decision, in part, on that basis.

Main Issues

6. The main issues are the effect of the proposed development on the:
- free flow of traffic and highway safety; and
 - living conditions of nearby occupiers with regard to noise and disturbance.

Reasons

Traffic and highway safety

7. The appellant has explained that the principal reason for the installation of the proposed gates is to respond to high number of burglaries on the Manor Park Estate by enhancing security for the locality and properties. The gates would be located across the highway on Manor Park, about 80 metres from the junction with Manor Park Road and St Paul's Cray Road. Manor Park provides the only vehicular access not only to properties along Manor Park but also those on Cookham Dene Close, Riverwood Lane and Manor Place. In total, I estimate this to amount to around 80 dwellings. As a result, a significant amount of traffic uses Manor Park to access and service these dwellings, including large scale delivery and trade vehicles and service vehicles for refuse and recycling.
8. The appellant initially stated that the proposed gates would open and close automatically when vehicles approach. However, from what I have read, the appellant has also stated that this would be monitored and if this were to have an adverse impact on traffic flow and create noise and disturbance, it is proposed to keep the gates open during peak periods. Having regard to the main purpose of the gates to provide security for the locality, I find that such an approach would defeat the object of the proposal. Moreover, it is noted that the proposed scheme would be located where it would not provide any such benefit to five properties on Manor Park, 'Manor Lodge', 'Manor Beech', 'Chelwood', 'Gandria' and 'Monterey', which have access that would be outside of the proposed gates.
9. In relation to the location of the 2002 approved but unimplemented scheme, I acknowledge that the proposed location of the gates in this appeal may result in reducing the potential for queuing traffic entering Manor Park backing up onto the nearby junction between Manor Park, St Paul's Cray Road and Manor Park Road. However, based on the evidence and noting a potential for the proposed gates to fail to open for any reason, open slowly or malfunction in any way, it is my view that there remains the risk for queuing traffic to back onto the junction. Given the unusual layout of the junction, three roads meeting at a bend on St Paul's Cray Road, I find that this would likely result in significantly raising the risk of harming the free flow of traffic and highway safety.
10. The appellant has referred to a traffic survey undertaken by the occupiers of 'Manor Beech', the property closest to the proposal. The appellant believes that the study represents a worst-case scenario. Nonetheless, the survey identifies that 29 vehicles per hour were recorded as passing 'Manor Beech' after 18:00hours. It is noted that this equates to less than one vehicle every two minutes. I also note that the gates would likely have a maximum opening time of 10 seconds for each vehicle. The appellant argues that even in these circumstances, the proposal would have a limited impact on traffic flow, reduce traffic speeds on approach and have a positive effect on road safety compared to the existing speed hump.
11. However, in my view, the lack of clarity and the inconsistency in explaining how, when and for whom the proposed gates would open automatically or whether they would open automatically at all raises my concern that the proposed gates would

adversely affect the free flow of traffic on Manor Park. Conversely, I have concerns that were the gates to remain open for the reasons stated, then the benefits of the proposed scheme and its *raison d'être* would be significantly diminished.

12. Whilst I note that residents may be issued with entry fobs with which to open the gates from approaching vehicles, from the evidence, there is no identified means for the gates to open automatically for delivery or trades vehicles. As such, it is likely that this would delay entry and exit for such vehicles and harm the free flow of vehicles which currently exists. In addition, I note concerns regarding the potential for vehicles to enter Manor Park and then, upon observing the proposed gates, attempting to either fully reverse back onto the nearby junction or turn around within the highway. Such actions would erode highway safety in the area and impact on the free flow of traffic along Manor Park. This is particularly concerning where vehicles are parked on either side of the highway. Moreover, the safety of all road users would be affected as there are no footpaths provided.
13. Having due regard to the above, I find that the proposal would increase the potential for vehicles to turn in the highway, amounting to a safety hazard for all road users due to a lack of footpaths and no turning facilities on Manor Park, other than private driveways serving adjacent properties. This would be of increased concern where larger vehicles would seek to turn around. Moreover, I find that the proposed gates would likely increase the risk of accidents due to the potential to increase queuing traffic on the highway waiting to negotiate the gates which could back onto the nearby junction.
14. Furthermore, I consider that the impact of the proposal on the free flow of traffic on Manor Park would be exacerbated by the introduction of a central pier within the highway. This, added to the uncertainty expressed relating to the impact of the proposed operation and timing of opening and closing the gates, raises significant concerns about the proposed scheme.
15. The appellant argued that the Council's reason for refusal regarding traffic flow and highway safety could be addressed by the imposition of suitably worded planning conditions. It is stated that such conditions could deal with the technical objections relating to any malfunction of the gates and the day to day management and operation of them. Notwithstanding this, I find that the issues raised relating to these matters could not be reasonably and suitably addressed by conditions.
16. Consequently, I conclude that the proposed development would have a significant adverse impact on the free flow of traffic and highway safety. Therefore, it would be contrary to Policy 32 of the Bromley Local Plan (the LP). Amongst other things, this policy seeks to ensure that development does not result in significant erosion of highway safety, including the safety of all road users.

Living conditions

17. The appellant stated that the Council's reason for refusal regarding noise and disturbance is based solely on the impact of stationary vehicles waiting to enter or exit the Manor Park Estate at the proposed gates. As such, it is argued that this is not a sustainable argument and is at odds with the approved scheme in 2002 which would have had a similar relationship with the occupiers of 'Monterey'.
18. I appreciate that the principal element of the Council's reason for refusal relates to noise and disturbance arising from waiting vehicles. Nonetheless, in my view, it is inherent that noise and disturbance would also be experienced by nearby residents from vehicles slowing down and speeding up. Moreover, it is reasonable to consider the potential noise and disturbance that opening and closing the proposed

gates would have on nearby occupiers, particularly those at 'Manor Beech' who would be close to the scheme.

19. In respect of comparisons with the 2002 scheme, from my observations, the proposed gates before me would be adjacent to the rear garden boundary of 'Manor Beech' and the living accommodation within the dwelling. Whilst there is a two-metre high boundary wall adjacent to the highway, this would have no material effect in mitigating the noise and disturbance experienced by the occupiers of the property as a result of the proposal. Furthermore, the 2002 scheme is not located adjacent to the private rear garden or living accommodation of 'Monterey'. As such, I find comparisons of the schemes to have limited weight.
20. In respect of the traffic survey by the occupiers of 'Manor Beech', I note in light of its findings that for the period after 18:00 hours, a vehicle used the proposed gates every two to three minutes on average. Taking account of the appellant's claim that the proposed gates would be open for a maximum of ten seconds to allow a vehicle to pass through, I have also considered the time taken to open and close the gates. As such, in my assessment, I find that on average each passing vehicle would result in a period of activity, including associated noise and disturbance, for of about 30 seconds every two to three minutes after 18:00 hours.
21. I acknowledge that this may demonstrate a worst-case scenario. However, I have also considered that Manor Park provides the only vehicle access for about 80 dwellings. As a result, I find that the likely level of traffic to and from these properties, and not only during peak periods, would result in the proposal having a significant adverse impact on the amenity of the occupiers of 'Manor Beech' in terms of noise and disturbance. This would be due to their proximity to the gates, the combination and frequency of the gates opening and closing and vehicles slowing down, stopping, starting and speeding up as they go through the gates.
22. Taking account of the above, I find that such a level of activity would result in significant noise and disturbance for those living closest to the proposed gates. Given the proximity of the rear garden and living accommodation at 'Manor Beech', I find the detrimental impact on the living conditions of the nearby occupiers and those of 'Manor Beech' in particular would be materially harmful and unacceptable.
23. Consequently, I conclude that the proposed development would have a significant detrimental effect on the living conditions of the occupiers of 'Manor Beech' with regard to noise and disturbance. Therefore, it would be contrary to Policy 37 of the LP which, amongst other things, seeks to ensure that proposals result in no substantive harm to the residential amenity of surrounding occupiers.

Other considerations

24. The proposal would be within the Chislehurst Conservation Area (CCA) and within the setting of a number of listed buildings. Therefore, in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have a statutory duty to pay special attention to preserving or enhancing the character or appearance of the CCA and preserving the setting of the listed buildings as designated heritage assets. Having assessed the proposal in this regard, I have noted the Chislehurst Conservation Area Supplementary Planning Guidance and the letter from The Chislehurst Society dated 6 September 2018.
25. The proposed piers and gates would be of a design and appearance in keeping with the character and appearance of the CCA and the setting of nearby listed buildings. It would also use materials that would complement those existing in the local area. As a result, the scheme would not result in any harm to the designated heritage assets and would preserve their significance as such. Moreover, the assessment of

the Council's Heritage Officer supports my view and it is noted that no objection to the scheme has been raised in this regard by the Council. Therefore, in design and appearance terms, I find that the proposal would preserve the character of the CCA and result in no material harm to the significance of the CCA or nearby listed buildings as designated heritage asset.

26. I note the disagreement between the parties regarding the status of Manor Park as either 'unadopted highway' or a 'private road'. However, as I am dismissing the appeal, it is not necessary for me to consider such matters further in any detail in this case. Nonetheless, noting the evidence of both parties, including informatives issued by the Council, it is noted that the Council has a record of Manor Park as an 'unadopted highway'. As such, having regard to the relevant matters set out in the submissions of both parties, I find that the identified restrictions on works to a public highway, that is to say a highway which the public have access to and along, albeit unadopted would likely apply in this case and as the Council has set out.

The Planning Balance

27. The proposal is intended to provide enhanced security for the local area and its properties which, it is noted, have been subject to relatively high levels of criminal activity in recent times. Furthermore, the design and appearance of the proposed gates would be in keeping with the character of the CCA and would preserve its character and its significance as a designated heritage asset. The scheme would also preserve the setting of nearby listed buildings and their inherent qualities. As such, considerable importance and weight must be given to the proposed gates for preserving the character of the designated heritage assets. In addition, it is noted that the majority of local residents have indicated support for the proposal.
28. Notwithstanding the above, based on the evidence before me, I find that the proposed development would have a substantive adverse impact on the free flow of traffic in the immediate area. Consequently, it would have a significant detrimental impact on highway safety for all road users. Moreover, the uncertainty around the practical operation of the proposed gates, including opening and closing them and the effect of the gates on the movement of passing vehicles would further exacerbate the risk to highway safety and significantly erode the residential amenity of nearby occupiers at 'Manor Beech' in terms of noise and disturbance. Therefore, having carefully considered all of the relevant matters before me, I find that on balance, the benefits of the proposed development would be outweighed by the significant harm I have identified.

Conclusion

29. For the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A McCormack

INSPECTOR