



Appeal Decision

Site visit made on 9 October 2019

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 25 October 2019

Appeal Ref: APP/H2265/W/19/3230565

10 Whatcote Cottages, Maidstone Road, Platt, Sevenoaks TN15 8JP

- 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 Alex Raby against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/19/00451/FL, dated 21 February 2019, was refused by notice dated 5 April 2019.
 - The development proposed is formation of vehicular access and associated hard standing.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Alex Raby against Tonbridge & Malling Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect on highway safety and the convenience of other highway users.

Reasons

4. The appeal site is a mid terrace property on the northern side of Maidstone Road. Maidstone Road is part of the A25 and forms part of the primary highway network. The appeal property, along with the other properties in the terrace, is located a short distance back from the highway and, at this point in the terrace, is set up from the highway.
5. In front of some of the properties, including the appeal property, towards the western end of the terrace is a lay-by parallel to the carriageway, allowing vehicles to parallel park. At the time of my site visit there were six vehicles parked with spaces for a small number more depending on the gaps between vehicles.
6. The proposal is to create a vehicular access through the lay-by to a proposed hardstanding area in front of the dwelling. There would be no room to turn off the carriageway, except if there happened to be an appropriate space in the lay-by, so access or egress would necessarily need to be in reverse gear. Such a turning space could not be relied upon and, if required in some way, would

- lead to a loss of parking in an area, which my observations at the site visit made clear was at a premium. I therefore consider this not to be appropriate.
7. During my site visit during the early afternoon during the working week I saw that Maidstone Road is heavily trafficked. Traffic counts provided by the appellant note that in the period 2000 to 2017 the Annual Average Daily Flow (AADF) were between 11,440 and 12,800 vehicles per day. I note that a reasonable proportion of this traffic are Heavy Goods Vehicles (HGVs) and during the site visit I noted a number of HGVs turning into and out from the Platt Industrial Estate that is accessed to the west of Whatcote Cottages.
 8. The Council is concerned about the reversing manoeuvres and it also considers that insufficient sight lines are available to allow appropriate visibility, particularly due to the presence of parked vehicles in the lay-by.
 9. The road at this point is subject to a 30mph speed limit and is lit. The highway authority has indicated that, in addition to on-site manoeuvring, it would seek a 2.4m (x-distance into the site) by 43m (y-distance) sight lines based on Safe Stopping Distance in accordance with the Kent Design Guide and Manual for Streets (MfS). The appellant disputes the need for this.
 10. In the terminology of MfS this type of access to a highway is known as a "direct access". The relevant section (7.9) deals with the history of such accesses and paragraph 7.9.5 states "it is recommended that the limit for providing direct access on roads with a 30mph speed restriction is raised to at least 10,000 vehicles per day". It then refers to a box which indicates that "very few accidents occurred involving vehicles turning into and out of driveways, even on heavily-trafficked roads". It is not clear as to whether the vehicles turning into and out of driveways did so in a forward gear in the research cases.
 11. In this case the AADF is materially above the 10,000 vehicles per day noted in MfS. I will come to the consideration of sight lines below, but by requiring vehicles to reverse either on to or off from the parking area would increase the likelihood of accidents on the A25. Allowing for vehicles to reverse in or out would mean that passing traffic would be forced to slow and/or stop. This would be detrimental to the convenience of other road users. This would result, on its own given the volume and nature of traffic on the highway, in significant and demonstrable harm to highway safety by increasing the risk of collision and inconvenience to other highway users.
 12. Vehicles parked in the lay-by would have a significant effect on visibility. Vehicles, and this can include small commercial vehicles being parked, as was the case at the time of my site visit, would interrupt views to both sides. While traffic on the A25 may be seen behind these vehicles this would require drivers to consciously to check for this, and in any event traffic conditions may change during the crossing of the lay-by. Any parked vehicles close to the proposed access point would effectively remove all sight lines in both directions. This lack of sight lines adds to highway safety objections whatever standards are used.
 13. I acknowledge that MfS and MfS2 both welcome direct accesses on the basis that they create streets that are linked to their surroundings, rather than simply being conduits for passing traffic. However, I do not think that this should be read as permitting a matter that would lead to highway safety objections.

14. The appellant has referred to another access to the A25 at 1A Marion Cottages, Maidstone Road, Wrotham Heath where the speed limit is 40mph. I visited this as part of my site visit. This proposal involved widening an existing access on the back edge of highway with no opportunity for turning so as to provide a second 'side-by-side' parking space. However, it seems to me that this is materially different to the appeal case since, firstly there was an existing access and, more importantly, there is a reasonable sight line to the east which is the direction of travel for traffic approaching on the same side of the carriageway as the access.
15. I have taken into account the various benefits of providing on-site parking as set out by the appellant, together with the offer to move the bus stop marker sign, but this does not alter my overall conclusion since the harms significantly and demonstrably outweigh any benefits.
16. I have also taken into account the appeal decision¹ relating to the adjoining property, No 11, from 2003. In my view, this decision reinforces my conclusions that the proposal would significantly harm highway safety given that at that time the speed limit and lighting conditions of the A25 were as they are now.
17. The appellant has made the point that he considers that the important planning policy for the determination of the appeal is out-of-date on the basis that he considers it inconsistent with the National Planning Policy Framework (the Framework). The Framework, in paragraph 213, makes clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework in February 2019. The Framework makes clear that due weight should be given to policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight may be given).
18. Policy SQ8 of the Managing Development and the Environment which is part of the Local Development Framework for Tonbridge and Malling (the MD&E) indicates that development proposals will only be permitted where they would not significantly harm highway safety. Paragraphs 108 and 109 of the Framework indicate the development should ensure safe and suitable access can be achieved for all users and that development should be refused if there would be an unacceptable impact on highway safety. The main point of difference is whether Policy SQ8 sets a higher threshold by setting it at "significantly" harming highway safety. It seems to me that Policy SQ8 does set a slightly higher threshold. However, this does not change my conclusion since I have determined that the harm from the proposal would significantly and demonstrably outweigh any benefits.
19. The appellant has also referred to what he asserts is an access at 6 Whatcote Cottages. I note that the whole of the area between that property and the back edge of the footway is laid to hardstanding, but there do not appear to be any dropped kerbs. As I do not know the planning history of this or whether, if being used as an access, it is lawful I can only give this very limited weight. This does not affect my conclusion on the main issue.

¹ APP/H2265/A/03/1108225

20. Similarly, I do not have full details of the other cases cited by the appellant and thus can only give them very limited weight. None of these, either on their own or cumulatively, change my overall conclusion.
21. I conclude that the proposal would be harmful to highway safety and the convenience of other road users. The proposal would therefore be contrary to Policy SQ8 of the MD&E as set out above. The proposal would also be contrary to paragraphs 108 and 109 of the National Planning Policy Framework which are also set out above.

Conclusion

22. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR