



Appeal Decision

Site visit made on 7 January 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/L2250/D/19/3239335

Bankside, High Street, Elham, Canterbury CT4 6SY

- 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 Shaun Pearce against the decision of Folkestone and Hythe District Council.
 - The application Ref Y19/0614/FH, dated 20 May 2019, was refused by notice dated 16 August 2019.
 - The development proposed has been described as "Drop the kerb to the front of the property to create access for off road parking for two cars. 2 ramp ends and 3 dropped kerbs required."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on highway and pedestrian safety with particular regard to the provision of visibility splays and the adequacy of the proposed parking spaces.

Reasons

3. High Street, Elham is the main road through the village, with a mostly residential character along the section of the road that the appeal site is part of. The frontages of surrounding properties are enclosed by a variety of walls and fences, with parking spaces, trees and other vegetation between the houses and the front boundaries. The off-street parking spaces of several nearby dwellings are accessed from the road.
4. The appeal site features hardstanding at the frontage of the dwelling, with a low brick wall at one side, a fence at part of the opposite side and an open frontage. The proposal would see the creation of an access to enable the frontage of the site to be used for the parking of 2 cars.
5. In respect of the provision of visibility splays, the submitted plans show that the appeal site extends forward of the front boundary of the neighbouring property of Nightingale Cottage. As such, adequate visibility splays can be provided in that direction, with views of approaching road users only being restricted by the presence of parked vehicles and other users of the road.
6. However, in the opposite direction, some of the land across which visibility is required appears to be outside the appellant's control and is not part of the highway. The vegetation at the frontage of The Sycamores provides a

significant visual barrier that obstructs views of cars approaching from the village centre. Therefore, users of the parking spaces would not be served by adequate visibility, which would lead to potential conditions of hazard for users of the proposed parking spaces and other road users. In this regard, notwithstanding the suggestion of the appellant, I have no basis to support the view that visibility splays are only required to be provided at a junction or where there is a bend within the road.

7. In respect of the adequacy of the proposed parking spaces, the evidence before me indicates that the requirement for car parking spaces to measure 2.5 metres by 5 metres is not disputed by the main parties. The submitted plans do not show the size of the site frontage consistently, with the plans numbered 001 and 002 showing that the site frontage is not 5 metres deep for its entire width and is of a different shape than has been shown on the site plan and the unnumbered hand-drawn plan. The annotated photograph that has been included within the appeal submissions does not address the inconsistency between the submitted plans.
8. As such the submissions do not demonstrate that 2 appropriately sized parking spaces could be provided at the site and that vehicles would be able to use the proposed parking spaces without encroaching onto the footpath. The footpath in front of the appeal site is particularly narrow and therefore any encroachment by parked cars could lead to conditions of inconvenience and unsafety for pedestrians.
9. It is not reasonable to impose a condition requiring the parking spaces to be a specific size as the evidence before me indicates that there can be no certainty that it would be possible to comply with such a condition. Similarly, it is not reasonable to impose a condition to require the submission of amended plans.
10. Paragraph 117 of the National Planning Policy Framework (The Framework) seeks to ensure safe and healthy living conditions and promote the safeguarding and improvement of the environment. In this regard, the appellant has suggested that parking off-street would create benefits in terms of reducing the likelihood of other road users causing damage to parked cars and reducing potential conflict caused by opening a car door into oncoming traffic. However, these factors would not compensate the effect on the safety of pedestrians and other road users caused by the potential encroachment of parked cars onto the footway and the absence of adequate visibility. Furthermore, as the evidence indicates that the development would not be able to function well, I do not find that the proposal complies with paragraph 127 of the Framework in the manner that has been suggested by the appellant.
11. Whilst other examples of similar development within the locality have been brought to my attention, I have not been provided with sufficient details of the age or the planning history of those examples to be able to afford them weight or conclude that the applicable development plan policies are the same. In any event, as the factors relevant to the main issue are site specific, the proposal should be considered on its own merits.
12. In relation to the examples from the wider District that have been identified by the appellant, the evidence before me does not demonstrate that this proposal is identical to the proposal at Millfield House, Barrack Hill, Hythe¹ in terms of its

¹ Y15/0252/SH

detail and its context. Moreover, as the considerations relating to the approval of a Certificate of Lawfulness are wholly different to the considerations relating to an application for planning permission, the example at 39 North Road, Hythe² is of no relevance to this appeal.

13. For the reasons given above, the proposal would have an unacceptable effect on highway and pedestrian safety with particular regard to the provision of visibility splays and the adequacy of the proposed parking spaces. The development would, therefore, be contrary to policies TR11 and TR12 of the Shepway District Local Plan Review 2006 which require that, amongst other things, new development includes parking that complies with the parking standards and that proposals involving the formation of a new access are not detrimental to the safety of vehicle traffic, cyclists and pedestrians.
14. I have not been provided with sufficient evidence in relation to the status of emerging policy T2 of the Places and Policies Local Plan (2018) to be able to afford it more than minimal weight. In any event, as far as it would be relevant to this proposal, policy T2 appears to have a similar aim to the existing adopted policies and would not, therefore, represent a reason to reach a different conclusion.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR

² Y17/0746/SH