
Appeal Decision

Site visit made on 25 February 2021

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021.

Appeal Ref: APP/X2220/W/20/3254530

Half Acre, The Rise, Kingsdown, Deal, CT14 8AY

- 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 Peter Hunnisett against the decision of Dover District Council.
 - The application Ref 19/00899, dated 20 June 2019, was refused by notice dated 19 December 2019.
 - The development proposed is the demolition of existing dwelling and outbuildings and erection of 5no. dwellings, garden sheds and associated site works.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the development on highway safety when considering the adequacy of sight lines at the entrance.

Reasons

3. The appeal site is located fairly centrally in the settlement of Kingsdown. It is within a long established residential area, within the Kingsdown Conservation Area. In view of the limited main issue, there is no need for me to dwell on the character and appearance of the conservation area; suffice to say that the immediate surroundings of the appeal site are on a hillside with generally narrow roads. The Rise runs more or less east-west and, as its name suggests, it rises up an incline from the east, away from the shore. At its narrowest, the carriageway of The Rise has a width of under 5m, particularly where it is rising from the east. For a short distance either side of the appeal site entrance it widens to around 6m, but the road is used on the south side for kerbside parking. The nature of the useable width, alignment and gradient result in vehicles travelling at speeds which average between 18 and 19 miles per hour¹.
4. The access to the appeal scheme is by way of the existing private drive to the bungalow presently occupying the site. This drive is a 3m wide single track for

¹ Speeds taken from a traffic speed analysis undertaken by 'motion' consultancy. These are questioned to a degree by the highway authority, but I regard them as reasonably representative of what I saw and would expect in such circumstances.

25m, widening to 4.5m as it reaches the parking and manoeuvring area at the front of the dwelling. Critically, no visibility is available in either direction along the road at the site boundary, due to fencing and hedges, etc. There is no footway or verge that might provide some sort of sightline along the highway. The land either side of the access is not within the control of the appellant or the highway authority, and so the sightlines cannot be improved.

5. A driver egressing at this point, at whatever distance s/he would be from the kerb according to bonnet length, would have no visibility. Because it appears that there is near permanent kerbside parking on either side of the entrance, it would be reasonably safe for a vehicle to emerge from the drive to the extent that its front did not project beyond the width of the parked vehicles, but even at this point the driver would effectively have no sight of approaching vehicles, other than what might be glimpsed through the parked vehicles' windows, where that may be possible.
6. The highway authority's consultation response states that the visibility requirement in this 20 mph zone is 25m x 2.4m x 25m, whilst noting that the proposal would bring an increase from 1 to 5 dwellings utilising the access. In answer to that, a plan produced by 'motion' transport planning consultancy, drawing No. 19209028-GA-104 'Proposed access arrangement and visibility splays', shows what is described as a 2.0m by 20.4m visibility splay to the east, and a 2.0m by 20.7m to the west. This splay has its central origin at the edge of the highway, and relies on 2 kerbside parking spaces immediately alongside the access being removed.
7. Whilst the removal of the two on street parking spaces each side of the access to the site was considered to be acceptable by the highway authority, it is not clear how such prohibition on parking would be enforced, and no condition has been suggested that would require a control on kerbside parking to be in place before development commences. I also consider that this would be a loss felt by local people, notwithstanding the 'Parking Technical Note' produced on behalf of the appellant. In any event, this splay does not follow the general convention of its origin beginning a certain distance back from the highway boundary. However, I do recognise that this drawing, in setting the eye point of the driver at the kerbside, would put the foremost part of the egressing vehicle within a 'safety' zone provided by the remaining vehicles that would be allowed to park at the kerbside, as mentioned in paragraph 4 above.

Conclusion

8. There are substantial qualities to the appeal proposal that stand in its favour and demonstrate that it meets many of the policies of the development plan and the National Planning Policy Framework, save for Framework paragraphs 108 b) and 109 that deal with safe and suitable access to a development. I recognise that Manual for Streets research suggests that very few accidents occur involving vehicles turning in and out of driveways, however it also specifies that one of the factors to consider is the distance between the property boundary and the carriageway to provide adequate visibility for the emerging driver.
9. The failure of the scheme to achieve any reasonable sight splay at the access to the public highway is more than a 'technical' breach. To allow the appeal and permit the development would lead to an unacceptable risk to highway safety

that must over-ride the several benefits of the proposal and the quality of the architecture and internal layout proposed. This is not a 'City of Edinburgh' case², as suggested in the appeal statement. Therefore I dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR

² City of Edinburgh Council v. Secretary of State for Scotland [1997] decision wherein Sullivan J. went on to say that:- "I regard it as untenable to say that if there is a breach of any one policy in a development plan, a proposed development cannot be said to be "in accordance with the plan". Given the numerous conflicting interests that development plans seek to reconcile: the needs for more housing, more employment, more leisure and recreational facilities, for improved transport facilities, the protection of listed buildings and attractive landscapes et cetera, it would be difficult to find any project of any significance that was wholly in accord with every relevant policy in the development plan. Numerous applications would have to be referred to the Secretary of State as departures from the development plan because one or a few minor policies were infringed, even though the proposal was in accordance with the overall thrust of development plan policies. For the purposes of section 54A it is enough that the proposal accords with the development plan when considered as a whole. It does not have to accord with each and every policy therein."