



Appeal Decision

Site visit made on 8 September 2021

by G Ellis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/R3650/D/21/3275106

Broadheath, Nutcombe Lane, Hindhead Surrey GU26 6BP

- 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 Barry Cannings against the decision of Waverley Borough Council.
 - The application Ref WA/2020/2043, dated 7 December 2020, was refused by notice dated 10 May 2021.
 - The development proposed is the reposition of vehicular access to Nutcombe Lane.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the development on highway safety.

Reasons

3. Nutcombe Lane is a single track rural lane bound by trees and vegetation. Along the lane are a small number of properties. Broadheath is set back from the lane and sited on higher ground. The existing vehicular entrance to the property is located relatively centrally along its frontage with the driveway curving around up to the property. The proposal would close off this current entrance with a straighter driveway created with its access point further to the south. Here there appears to be a greater difference in levels to the lane with the existing banked area containing hedging/trees and a stepped pedestrian access. The gradient of the proposed driveway is not shown on the plans, however, to form the access changes to the profile of the land would be necessary and vegetation cleared.
4. The Highway Authority (Surrey County Council) have objected to the proposal as the visibility splays extend across land over which the appellant does not have control and therefore could not necessarily be maintained.
5. The National Planning Policy Framework 2021 (the Framework) sets out at paragraph 110 that applications for development should ensure that safe and suitable access can be achieved for all users. Visibility splays are necessary to ensure the safety of users of the lane including those entering and leaving the drive. I saw on my site visit that visibility from the existing driveway is limited, and whilst there is no specific evidence before me, given the nature of the

road, I accept as suggested by the appellant, that the lane is likely to be lightly trafficked.

6. The appellant also suggests that the proposed access, which would have a wider, angled bellmouth with greater visibility, would be a significant safety enhancement over the existing arrangements. However, for this to be the case the visibility splays would need to be implemented and maintained. Part of the proposed access driveway and the visibility splays extend over land outside the control of the appellant.
7. The parcel of land between the edge of the highway and the front boundary of the property is unregistered land. The appellant indicates that they maintain and use this land and that the previous owner did similarly, which is endorsed by neighbours. The appellant has also applied to HM Land Registry for freehold ownership, although I am not aware of any outcome. I have no reason to doubt that the appellant currently maintains the vegetation along its frontage. However, the relocated access would be located towards the corner of the plot meaning that the visibility splay to the south extends along Nutcombe Lane beyond the frontage of the property.
8. Ownership is a legal matter. Nevertheless, I note that both for the application and appeal ownership certificate A was completed certifying that the applicant is the sole owner of all the land within the boundaries of the application site. The evidence presented by the parties clearly indicates that is not the case, and the requisite notice has not been served. Additionally, for highway safety reasons the implementation and maintenance of the visibility splays would need to be secured by condition to ensure they are available in perpetuity. In this case, such a condition would not meet the tests for conditions (as set out at paragraph 56 of the Framework) as it would not be enforceable.
9. Thereby, from the information before me, I am not persuaded that a safe access could be achieved and maintained. The proposal is therefore contrary to policy ST1 of Waverley Borough Council's Local Plan 2018 and the Framework which requires that new development does not compromise highway safety.

Other Matters

10. The site is located within the Surrey Hills Area of Outstanding Natural Beauty (AONB). The Council consider that the proposal would not harm the landscape character of the AONB or the intrinsic character and beauty of the countryside. The verdant form of the road is part of the character of the area. Whilst information submitted with the proposal in terms of any engineering details and protection of the adjacent trees are lacking, these matters could, if I had been minded to allow the appeal, be secured by condition and therefore I have no grounds to disagree with the Council's position.

Conclusion

11. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should be dismissed.

G Ellis

INSPECTOR