
Appeal Decision

Site visit made on 11 July 2022

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 July 2022

Appeal Ref: APP/U2235/W/21/3275550

1 Whiteacres, Marden Road, Staplehurst TN12 0JG

- 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 Mark Warren against the decision of Maidstone Borough Council.
 - The application Ref 20/505296/FULL, dated 5 November 2020, was refused by notice dated 2 March 2021.
 - The development proposed is the provision of an access point.
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Decision

1. The appeal is allowed and planning permission is granted for the provision of an access point at 1 Whiteacres, Marden Road, Staplehurst TN12 0JG in accordance with the terms of the application, Ref 20/505296/FULL, dated 5 November 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. Additional highway evidence has been submitted by the appellant with the appeal. This is in response to one of the Council's reasons for refusing planning permission, and notably, the Council has considered this evidence within its statement. Therefore, I have taken the additional highway evidence into account in reaching my decision.

Main Issues

3. The main issues are the effect of the proposal on: (a) the character and appearance of the area; and (b) highway safety, having regard to the proposed visibility splays.

Reasons

Character and appearance

4. The appeal site relates to one of several substantial plots of land on the northern side of the road each with a single storey home with paddocks, yards and outbuildings. A shared access currently serves the appeal site, but the appellant seeks to create their own access onto the road. The northern side of the road is lined by a grass verge and mature trees and hedges. The southern side of the road is also lined by a grass verge and a mature hedgerow. Collectively, these contribute to a verdant rural character.
5. That said, there are several existing vehicular accesses that punctuate the landscaping on the northern side of the road, but do not detract in overall terms from the character of the area due to the gaps between them and the width of the accesses. The proposed access would be between two existing accesses, but a gap would remain to each along with existing planting.

6. I agree with the Council that the creation of the access would result in the loss of a section of existing planting. This would, however, be a modest loss. This would invariably allow for glimpsed views into the land behind when passing in either direction. I am mindful of the two extant planning permissions¹ granted by the Council for additional mobile homes and the additional landscaping that has been secured by condition on each planning permission along the site's frontage. The additional landscaping secured through these permissions is consistent with the objectives of Policy DM15 of the Maidstone Borough Local Plan (Local Plan) which seeks such development to be well screened by existing landscape features...and additional planting should be used to supplement existing landscaping.
7. Notably, the approved layout for the earlier of those applications would be in direct conflict with the layout of the proposed access and driveway. Hence, only one of the two schemes could in practice be implemented. But even if I am wrong on this, large parts of the landscaping envisaged as part of that scheme could still be realised. Further, some of the landscaping secured as part of the second permission could still be planted, albeit the infilling of the middle gap would not. However, appropriate planting for the area could be added to the northern and southern fringes of the proposed driveway. This could be secured through a planning condition, and it could soften the introduction of a new access and length of driveway and ensure the verdant character of the area is maintained. This would also ensure that the other development on the land would be well screened and that the development responds to the natural character of the area.
8. I conclude, on this issue, that the proposed development would accord with Local Plan Policies DM1 (ii), (v) and (vi), DM3, DM15, DM30 (i) and SP17 as the proposal would not harm the character and appearance of the area. Jointly, these policies seek, among other things, development in the countryside to respond positively to and maintain the character and local distinctiveness of the area including its landscape features, and appropriately mitigate its impact through additional landscaping to supplement existing landscaping.

Highway safety

9. Marden Road is a local distributor road linking Staplehurst with the village of Marden. The road is single carriageway and around 5.2 metres wide by the proposed access point. The stretch in front of the appeal site and neighbouring properties is broadly straight, but there is a sharp bend to the west of the site which is followed by a series of other bends. Collectively, these affect vehicle speeds approaching the appeal site. To the east there is a slight bend prior to reaching Staplehurst. The road is subject to a national speed limit, but this changes to 30mph just prior to the junction of Marden Road with Clapper Lane and Pagehurst Road. The grass verges either side of the proposed access are kept trim. There are no pedestrian footways or street lighting, so the road is mainly used by vehicles.
10. The visibility splays discussed in Manual for Streets (MfS) relate to vehicles travelling at speeds below 37mph (just under 60kph). Typically, for vehicles travelling at speeds greater than this MfS is not appropriate to use. Instead, stopping sight distances (SSDs) in the Design Manual for Roads and Bridges (DMRB) tends to apply. However, DMRB is primarily applied to motorways and

¹ Council Refs: 19/501105/FULL and 21/501982/FULL

trunk roads not existing single carriageway rural roads such as Marden Road.

11. In any event, the desirable minimum SSDs used in DMRB are based on driver perception, not the ability of drivers to stop much quicker in practice in response to an emergency. The SSD for the design speed of Marden Road is reduced for one step below desirable minimum. The proposed visibility splays of 2.4 x 90 metres to the north-west and 2.4 x 120 metres to the south-east would not meet either the desirable minimum or the one step below desirable minimum SSDs in DMRB.
12. In this case, given the nature and speed limit of the road, evidence of actual speeds and traffic volumes is a more appropriate means of determining the required standards. Whilst there is no underlying raw data available, the Council does not dispute the 85 percentile speeds. I note that the appellant's survey was not available when the Council determined the planning application, but it is the most appropriate evidence to assess the proposed visibility splays given its specific nature to the proposed access and Marden Road.
13. The appellant's survey shows that traffic flow on Marden Road is generally light and sporadic, with two-way flows being less than 200 vehicles per hour even at peak periods. Traffic speed surveys carried out over a seven-day period also demonstrate that an 85 percentile speed of 37.2 mph (just under 60 kph) on the southeast bound approach to the proposed access and a 47.3 mph (just over 76 kph) 85 percentile speed on the northeast bound approach to the proposed access. These speeds are affected by the bends either side of the appeal site (more so on approach from the north-west), the width of the road and change in speed limit to the southeast.
14. At the assessed speeds, a SSD of 56 metres would be required to the north-west if MfS were applied. This is considerably short of the proposed 90 metres which is the one step below desirable minimum in DMRB for a speed of 43.5 mph. This therefore provides some leeway over and above the assessed 85 percentile traffic speed. For the south-eastern visibility splay, the assessed speed lies between the 70 and 85 kph design speeds in the table. For this speed, the desirable minimum SSD would be slightly greater than the 120 metres applicable at 70 kph but the one step below desirable minimum SSD for 85 kph at 120 metres would be too great based on the assessed speed. Therefore, the proposed 120 metre SSD would lie between the two. In this case, I consider this to be appropriate based on traffic speeds and the road conditions. I also note there have not been any incidents in the last five years relating to the use of the existing nearby accesses.
15. Accordingly, I conclude that the proposed vehicular access would not have a detrimental impact on highway safety, having regard to the proposed visibility splays. The proposal would accord with Local Plan Policies DM1 (ix) and DM15 (iii) along with paragraph 111 of the National Planning Policy Framework. These seek, among other things, to ensure that the site can be safely accessed to and from the highway by all vehicles using the site on a regular basis so that there is not an unacceptable impact on highway safety.

Conditions

16. I have imposed an approved plans condition in the interests of certainty. In the interests of highway safety, I have imposed an amended version of the suggested visibility splay condition given my findings on the second main issue. Due to the character and appearance of the area, a lighting condition is

necessary in the interests of amenity. Conditions are necessary in the interests of ensuring the development responds to the character and appearance of the area to secure new landscaping and the retention of existing landscaping. I have not imposed a condition in respect of a precautionary Great Crested Newts mitigation strategy as there is no substantive evidence to demonstrate that this condition is necessary.

Conclusion

17. The proposed development would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.
18. For the reasons given above I conclude that the appeal should be allowed.

Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, No. 7051-PRO_02_101B; Existing Block Plan, No. 7051-PRO_02_102B; and Proposed Vehicular Access, No. 7051-PRO_02_202C.
- 3) The access hereby permitted shall not be brought into use until a plan has been submitted to and approved in writing by the Local Planning Authority showing the provision of adequate visibility splays in accordance with Figure 2 of the Transport Statement for the new access. The visibility splays shall be implemented in accordance with the approved plan and maintained thereafter.
- 4) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors. The development shall be carried out in accordance with the approved details and maintained as such thereafter.
- 5) No development shall commence until a scheme of hard and soft landscaping for the site, including details of all hard surfacing and planting within the site and boundary treatments, using indigenous species and a programme for the approved scheme's implementation and long term management has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include indications of all existing trees and hedgerows on the land and adjacent to the site boundaries, and also an implementation programme. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines. The development shall be carried out in accordance with the approved scheme by the end of the first available planting season following first use of the development hereby approved. Any part of the approved landscaping scheme that is dead, dying or diseased within 5 years of planting shall be replaced with a similar species of a size to be agreed in writing beforehand with the Local Planning Authority.
- 6) Any trees to be retained must be protected by barriers and/or ground protection in accordance with BS 5837 (2005) 'Trees in Relation to Construction-Recommendations'. No work shall take place on site until full details of protection have been submitted to and approved in writing by the Local Planning Authority. The approved barriers and/or ground protection shall be erected before any equipment, machinery or materials are brought onto the site and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed, nor fires lit, within any of the areas protected in accordance with this condition. The siting of barriers/ground protection shall not be altered, nor ground levels changed, nor excavations made within these areas without the written consent of the Local Planning Authority.

END OF SCHEDULE