



Appeal Decision

Site visit made on 16th March 2023

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 19th April 2023

Appeal Ref: APP/C3620/D/22/3299763

31 Mill Lane, Dorking RH4 1DX

- 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 Miss Laura Groom against the decision of Mole Valley District Council.
 - The application Ref.MO/2021/1636/PLAH, dated 28 August 2021, was refused by notice dated 18 March 2022.
 - The development sought is the opening of a wall and installation of a wooden sliding gate to allow the use of space for parking a vehicle.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development sought in this appeal has already taken place.
3. The description of works on the application form stated "*We are seeking retrospective planning permission to install a wooden sliding gate for a driveway to the side of our property. The land has been excavated to the same level as the road in order for the construction of a basement to take place and has now also allowed us space to park one car off the road. We hope to gain permission to keep the sliding gate that we have installed in order to protect the property, provide privacy and allow the use of the space for parking a vehicle. The gate is 1.8m high and covers a 4.3m opening. A convex driveway exit mirror will be installed to ensure a safe exit from the driveway. The gate features a FAAC 740D remote operated motor to prevent the need to stop in the road to manually open it, it is fitted with safety sensors.*" For reasons of brevity, I have shortened this description in the banner heading above to "opening of a wall and installation of a wooden sliding gate to allow the use of space for parking a vehicle."
4. It is not within the remit of this appeal for me to consider whether the excavation that has taken place on the site enjoys the benefit of planning permission. The precise details of any earlier planning permissions have not been put before me as part of the evidence.

Main Issues

5. The appeal site lies within the Dorking Conservation Area. The main issues in the appeal are twofold: whether the development preserves the character and

appearance of the Conservation Area, and the effect of the development on highway and pedestrian safety and convenience.

Reasons

Preservation of character and appearance of Conservation Area

6. 31 Mill Lane is an end-of-terrace house in Dorking town centre which faces west and has some enclosed space to its north. The space is being used, *inter alia*, to park a vehicle clear of the highway and there is a sliding gate across this entrance.
7. The property is located at the intersection of Mill Lane and the access leading to dwellings at Ansel Road. Land levels rise from the west at the front of the site fairly steeply to the east at the rear. The terrace houses including no.31 are elevated above Mill Lane.
8. Planning permission is sought retrospectively for the opening of the wall and installation of the sliding gate. The gate is about 3.8 metres wide and about 1.6 metres in height and is therefore sufficiently wide for vehicular access. Express planning permission is required as there is an Article 4 Direction on the site which removes permitted development rights under the Town and Country Planning (General Permitted Development) (England) Order 2015 for the erection or removal of gates, walls, fences or other means of enclosure (of any height) that front the road.
9. The significance of the Conservation Area in the immediate area of the appeal site is made up of the characterful red brick late nineteenth century cottages with black iron railings, elevated above Mill Lane, which is narrow with one slender footpath on its eastern side adjacent to a high brick wall. The view of more dwellings on the higher land behind and another footpath climbing the slope gives an intimate residential character. However, there are also distinctive commercial elements in the immediate area with a public house, a youth club, a car park and a football ground/sports complex nearby.
10. Whilst the sliding gate is large it does not protrude above the brick walls to either side of it. It does not appear to me to be unduly commercial or utilitarian in appearance. It is made of wooden slats and has a simple anthracite steel frame. Furthermore, given the mix of uses in this part of this town centre conservation area it does not appear unduly incongruous. The use of a natural material such as wood is appropriate, softens its impact and does not jar with the brick wall. The impact of the development on the significance of the Conservation Area is neutral.
11. Consequently, on this issue I find that the development does not fail to preserve the character or appearance of the Dorking Conservation Area and would not be in conflict with policies ENV22, ENV23 or ENV39 of the Mole Valley Local Plan (adopted 2000) 'MVLP' or policy CS14 of the Mole Valley Core Strategy (adopted 2009).

Highway Safety and Convenience

12. The creation of an opening in the wall bounding Mill Lane wide enough to allow vehicular access into and out of the appeal site has taken place. This is clear from the narrative in the description of development on the Planning Application Form. Mill Lane is a 30mph road and a new permanent vehicular access in this

location would require visibility splays of 2.4m 'X' distance by 43m 'Y' distance in accordance with the Department of Transport's "Manual For Streets" 'MfS'. There is a public footway adjacent to the site access which is likely to be frequently in use in this heavily residential and commercial area. Whilst my site visit can only represent a snapshot in time, I noted that pedestrian activity along Mill Lane was frequent throughout that visit. The evidence before me fails to demonstrate that the required MfS pedestrian and vehicular visibility splays are achievable from the gated access.

13. There is also no evidence to demonstrate conclusively that a vehicle can enter the site in a forward gear, turn and leave in a forward gear. Reversing into the site from Mill Lane or reversing out would either be unsafe for other road users and pedestrians or cause inconvenience to other road users. Reversing in or out could cause tailbacks on Mill Lane as it is narrow. This would compromise the free flow of traffic. The appellant has proposed the use of a mirror to mitigate for inadequate pedestrian and vehicular visibility splays but there is no evidence that a mirror would be sufficient to remove or reduce danger to road users or pedestrians, or that the appellant could secure control or agreement in relation to land on which a mirror would need to be erected if such land was outside her control.
14. I am supported in these primary conclusions by the Highway Authority who are also not satisfied that the required visibility splays are achievable from the access. I note also that it considers that the installation of a mirror is not an acceptable solution. I do not agree with the appellant when she asserts that vehicle movements through the opening will occur in any event, because permission is sought for creating the opening in the brick wall, albeit retrospectively.
15. On the second issue I conclude that the proposal would result in danger and inconvenience to other highway users and pedestrians. It would be in breach of policy MOV2 of the MVLP and objective 3 of the Surrey Transport Plan 2011-2026 'To improve road safety and the security of the travelling public in Surrey'.

Conclusion

16. Whilst I have found that the vehicular access gate preserves the character and appearance of the Conservation Area, I have found that the development would be likely to result in danger and inconvenience for other road users and pedestrians. I have weighed up this harm against the benefits that the appellant has set out in the evidence. These include security for her family, privacy for her family and less litter on her property. However, the harm I have identified clearly outweighs these other considerations. Consequently, having taken into account all representations made, for the reasons given above, I dismiss the appeal.

Megan Thomas K.C.

INSPECTOR