



Appeal Decision

Site visit made on 23 August 2023

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/X2220/W/22/3307342

Gore Cottage, Gore Lane, Eastry, CT13 0LW

- 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 J Checkland against the decision of Dover District Council.
 - The application Ref 21/01699, dated 4 November 2021, was refused by notice dated 10 June 2022.
 - The development proposed is erection of a detached dwelling with associated parking and boundary fence and the creation of a vehicle access and associated parking for Gore Cottage.
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Decision

1. The appeal is dismissed.

Main Issue

2. This is the effect of the proposed vehicle access on highway safety having regard to visibility along Gore Lane.

Reasons

3. This part of Gore Lane is narrow with no pavements. There are a number of residential properties along it with direct access onto the lane. My visit was undertaken mid-morning on a weekday. Vehicle flow and speeds along the lane were not high but neither was it quiet and the traffic that I observed included lorries.
4. The plans show sightlines of 2.4m by 43m in both directions. To the north the splay would cross land owned by the occupier of Lavender Cottage as well as a bank adjoining the lane which has unregistered title. However, the highway authority accepts that the 'x' distance could be reduced to 2m. The red line which denotes the extent of the appeal site only includes land within Lavender Cottage and not the bank.
5. In practice, visibility could potentially be gained over the immediately adjoining driveway of Lavender Cottage. However, in my estimation, it would be obstructed by the slope of the bank beyond that. It is also unclear how the stone wall and handrail along the boundary which exceed 1m in height would be treated. Indeed, there is a lack of clarity about the level of visibility that could be actually achieved given the practical constraints that exist and the need for the proposed driveway to be excavated.
6. The appellant does not dispute that the standard sought by the Council is the appropriate one. Indeed, there is no empirical evidence about traffic volumes or speeds along the lane or accident data and no consideration of the

relationship between the new access and Selson Lane. Neither has any comparison been made with the visibility available to other residential properties along Gore Lane. Anecdotal and video evidence from residents nevertheless refers to frequent traffic problems and speeding and its use by HGVs, double decker buses, cyclists, horse riders and pedestrians. This area of the road is referred to as a "pinch point".

7. My overall assessment is that the level of visibility to the north that could realistically be achieved would be sub-standard. The appellant's assertion that the requisite splays could be provided on land within his control or on unregistered land is not correct. There is also no indication of how the bank might feasibly be altered to increase the view of approaching traffic. Insufficient evidence exists to indicate that the extent of the sightlines should be reduced below that proposed. Indeed, in all the circumstances, there would be an unacceptable impact on highway safety contrary to paragraph 111 of the National Planning Policy Framework.

Other Considerations

8. The Council did consider whether a 'Grampian' condition could be imposed to prevent the development taking place until adequate sightlines had been secured. However, Planning Practice Guidance advises that such conditions should not be used where there are no prospects at all of the action being performed within the time limit imposed by the permission. The attitude of the adjoining owner makes it clear that she will not permit the sight lines to be provided over her property and that she is seeking to claim title of the unregistered bank. Therefore, a condition of this kind is not justified.
9. As part of the application no notice was served on the adjoining owner as required by the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, she was clearly aware of the application and, given the outcome, no prejudice would be caused by determining the appeal.
10. Gore Cottage is a non-designated heritage asset. Paragraph 203 of the Framework confirms that the effect on its significance should be taken into account. It is of modest scale and positioned close to the lane. Whilst claimed to be one of the original buildings in Eastry, there is a limited amount of historic fabric and later alterations have been undertaken. Nevertheless, it has a value because of its age, the basic timber frame structure and the early exterior brickwork that remains.
11. The proposed dwelling would be located quite close to the rear of the existing building on slightly raised land. It would be positioned between Lavender Cottage and Walnut Tree Cottage and so would sit comfortably within the existing line of development. It would be low in height and so would not compete visually with Gore Cottage which would therefore retain its pre-eminence as a historic building next to the road. Its overall qualities would not be comprised by an additional dwelling behind it or the proposed driveway.
12. Due to the distance to, and relationship with, nearby listed buildings, the proposal would not have an adverse effect on their setting.
13. Other objections have been raised relating to the need for additional housing, design, proximity to Gore Cottage, residential amenity of neighbouring

properties and gardens, precedent and other matters. However, none of these add to the objection identified for the reasons given in the Committee report.

14. The proposed dwelling is within the settlement confines of Eastry and within reasonable walking and cycling distance of its services and facilities but these locational advantages do not override the harm that would occur.

Conclusion

15. None of the policies cited in the Core Strategy directly refer to highway safety and neither do those in the emerging draft Local Plan. The proposal would comply with other relevant policies but this is outweighed by the unacceptable impact on highway safety. This finding and the provisions of the Framework therefore indicate that the appeal should be decided other than in accordance with the development plan. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR