



Appeal Decision

Site visit made on 11 July 2023

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2023.

Appeal Ref: APP/G5180/D/23/3316432

213 Elmers End Road, Bromley, Beckenham, BR3 4EH

- 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 Graham Duncan against the decision of the London Borough of Bromley.
 - The application Ref. DC/22/03903/FULL6, dated 4 October 2022 was refused by notice dated 29 November 2022.
 - The development proposed is construction of vehicular access and hardstanding for off-street parking in front garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have adopted the description of development as set out in the decision notice as this more accurately describes the proposal.

Main Issue

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

Reasons

4. The appeal site comprises a two storey terraced property on Elmers End Road. The frontage to the appeal site comprises an area of hardstanding that is enclosed on two sides by low boundary walls up against which are various potted plants. The host property also benefits from a long rear garden with a large outbuilding backing onto a private lane that I understand provides access to the rear of the appeal site as well as the rear of adjacent properties. The entrance to this private lane is a short distance to the south east. Elmers End Road itself is a classified London Distributor Road (A214).
5. The appeal proposal would involve the formation of a crossover and vehicular access from the front of the host property directly onto Elmers End Road. This would enable a car to be parked within the frontage utilising the existing hardstanding area. A charging point would also be provided for an electric vehicle. The submitted plans only show the visibility splays that could be achieved at the proposed access. Whilst there are no details of the proposed car parking layout, I concur with the Council's findings that there only appears to be sufficient space for one vehicle to park on the hardstanding area.

6. As I observed on site, there is a significant amount of on street parking on both sides of Elmers End Road and at the time of my visit this included cars parked in front of the appeal site. I could not see any highway signage to indicate that on street parking was in any way restricted to, for example, residents or time limited in terms of its duration. I also observed three properties on this side of the road where off-street parking was provided and I will return to those examples later. However, it was also very evident on my visit that this is a busy road and the Council indicate that it carries a significant weight of traffic, which has not been challenged and reflects its classification.
7. Within the above context, the introduction of a new vehicular access as proposed would give rise, in my view, to the potential for significant conflicts with other road users. Drivers attention, in both directions, would be constantly focused on the large amount of traffic that the road accommodates and to ensuring that they comply with the speed restrictions, given the presence of a speed camera just to the north west of the site. The proposed access would also be formed within a location where there is on street parking and therefore poor visibility, creating the potential for accidents to occur and for there to be a danger to not only drivers but also pedestrians and cyclists.
8. The Council contend that the danger to highway users arises from the inability of a car to enter and leave the proposed parking space in forward gear. This is based on their assessment that the frontage to the appeal site does not contain sufficient room for a car to turnaround. Whilst the Council accept that the required visibility splays, for both vehicles and pedestrians, could be achieved when a driver is exiting the site in forward gear, those visibility sight lines could not be achieved when a driver is reversing a car out of the proposed parking space. Based on the evidence before me and my observations on site, I fully concur with the Council's findings in this respect.
9. The proposal would lead, therefore, to a situation where vehicles would have to reverse onto Elmers End Road or reverse into the parking space. In both scenarios, this would create a significant highway safety hazard and interfere with the free flow of traffic on this important and busy classified road. It would also represent a danger to pedestrians as vehicles would be reversing over a pavement that is well used.
10. The Council's findings are based on the local Highway Authority's consultation response, dated 5 October 2022. No substantive evidence has been submitted by the Appellant to challenge those findings and in their capacity as the local highway authority and as their findings concur with my own observations on site, I attach significant weight to the Highway Authority's objection.
11. The Highway Authority's response and the Delegated Report also draw attention to the approach that the Council will take where new crossovers are proposed and confirms that they will permit new vehicle crossings on classified roads subject to a road safety audit. This approach is set out in policy 34 of the Bromley Local Plan (January 2019) (BLP). Part 'b' to that policy states that the Council will consider new vehicles accesses subject to road safety requirements and that various principles will be applied to all new accesses. These principles include, on classified roads, permitting new crossovers "*subject to a road safety audit demonstrating acceptability to the Council.*" No road safety audit has been submitted in support of the proposal and I note that the Highway Authority indicate that, in their view, the site is unlikely to be able

to pass such an audit. The Highway Authority's response, in this respect, would not, of course, preclude the Appellant from undertaking a road safety audit in support of a revised application, but in the absence of any such audit the appeal proposal is clearly in direct conflict with the requirements of policy 34 of the BLP. As the Council have also emphasised and for similar reasons, the proposal would be contrary to policy 32 of the BLP, which seeks to ensure that development does not significantly adversely affect road safety.

12. The Appellant has referred to the fact that they are a blue badge holder and contend that the Council's decision to refuse permission amounts to discrimination. There is no evidence before me to suggest that the Council's decision results in any form of discrimination and indeed the evidence suggests the opposite in that it indicates that the Council have properly applied the relevant local plan policies that seek to safeguard highway safety. Those policies also seek to ensure ease of access for people with disabilities and mobility impairments, subject to road safety requirements. There is also no evidence to suggest that the Council have applied those policies in an inconsistent manner and indeed the opposite is again the case in that the Delegated Report indicates that three previous applications for crossovers on the appeal site have been refused on similar highway safety grounds.
13. I do sympathise with the Appellants personal circumstances and the difficulties that this gives rise to in terms of parking and accessing their property and I also acknowledge the benefit of providing a charging point for an electric vehicle. However, neither of these considerations outweigh the significant harm that I have identified to highway safety. Furthermore, there is nothing to indicate whether the Appellant has investigated other options, for example, the ability to adapt the rear of their site for parking and benefit from the safe, convenient and easy access that is apparently available from the private lane.
14. Turning to the other crossovers referred to by the Appellant, no details of the planning background to these examples has been provided or whether any of them benefit from planning permission. Similarly, there is no indication as to whether these crossovers post-date the policies in the BLP or whether they are historical and thus beyond planning control or are unlawful. Even so, in some of the cases I note that there appears to be room for vehicles to potentially turnaround and thus enter and leave in forward gear. Consequently, none of these examples affect my overall findings.
15. Accordingly, I find that the proposal would result in an unnecessary additional vehicle access onto Elmers End Road that would be detrimental to highway safety and would thus be contrary to policies 32 and 34 of the BLP.

Conclusions

16. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR