

Planning Statement

37 Old Road West, Gravesend, Kent, DA11
OLH

Formation of vehicular access on to B261
and provision of one off-street parking space
in front garden with associated hard
standing.

13 June 2024

By GRAHAM SIMPKIN PLANNING

For: Andrew Pitches

Project reference: PR4135



RTPI

Chartered Town Planners

GSP

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1 Introduction

- 1.1 This Planning Statement has been submitted in support of an application for the following development at 37 Old Road West, Gravesend, Kent, DA11 0LH (hereafter referred to as 'the Site'):

Formation of vehicular access on to B261 and provision of one off-street parking space in front garden with associated hard standing

- 1.2 The proposed development affects the following Land Registry title(s):

Title Number	Description	Owner
K870577	37 Old Road West, Gravesend, DA11 0LH	The applicant

- 1.3 The application is accompanied by the following plans and documents:

4135-01 – Site Location and Existing Block Plan

4135-02 – Driveway Plan and Elevations

4135-03 – Proposed Block Plan

4135-04 – Proposed Driveway Plan and Elevations

2 Site Context

- 2.1 The Site, in residential use, extends across approximately 300sqm and is roughly 35m in depth and 7m in width. It is located on the south side of Old Road West (B261) in Gravesend. Furthermore, the house is offset from the main road by roughly 9m. The front garden consists of soft landscaping with a pathway leading to the property.
- 2.2 The existing front garden has a red and black tile path leading to the front door from the front gate whilst being surrounded by loose slate chippings. There is a small selection of soft landscaping consisting of two bushes and two small trees.
- 2.3 The dwelling itself consists of white render walls, a downstairs bay window, black down pipes and guttering, a black door, white UPVC windows and small dormer windows in both the front and rear roof slopes.
- 2.4 The property adjacent to number 37 (No. 37a) had an extensive drive that surrounds the house on the west side round to the south to create multiple parking spaces for the property. This driveway is also used by the resident at number 37.
- 2.5 Regarding the surrounding areas, there are a range of semi-detached properties, some of which have driveways facing onto Old Road West as well as others having gardens similar to the one possessed by the Site.
- 2.6 This Site is the subject of the following planning constraints and characteristics:
- Flood Zone 1 (low risk of flooding from rivers and the sea)
 - Situated on a B-classified road (B261)

3 Relevant History

- 3.1 37 Old Road West does not appear to have an extensive planning history; however, the property next door (37a) has a previously approved development as listed below that includes vehicular access on to the same highway as proposed for the Site:

Erection of a semi-detached two storey dwelling with rooms in the roof space, a detached double garage at the rear for the existing and proposed dwellings and repositioning of vehicular access onto a classified road.

Ref. No: 20020877 | Received: Fri 25 Oct 2002 | Validated: Tue 04 Mar 2003 | Status: Application Permitted

4 Proposed Development

- 4.1 The intention for the Site is to develop a driveway in place of the existing front garden to provide parking for the property along with a dropped kerb to access 37 Old Road West (B261). The development will entail the following:
- 4.2 Closest to the house, there will be different types of planting to separate the parking space away from the dwelling itself.
- 4.3 The existing wall be demolished in order to create the access point to the driveway.
- 4.4 The existing signpost will be removed and moved to the furthest east point of the path in order to allow access to the parking.
- 4.5 The materials to be used on the ground will be grey permeable bound gravel.
- 4.6 The driveway itself will be 4m in width and 7m in length whilst the parking space will be 5m in length and 2.5m in width.
- 4.7 There will be planting that will line the existing dwelling as well as the planting that will be retained along the eastern wall. The additional, repositioned planting is replacement for what will be lost as a result of the new access.
- 4.8 Adjacent to the existing eastern wall will be a 0.6m high wall that will separate the bush from the repositioned sign post. The materials for the wall will be matched to the existing eastern wall.

5 Planning Policy

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Court of Appeal has clarified that for a decision maker this means establishing whether a proposal is in accordance with the development plan as a whole. The question of compliance with one policy should not dictate the outcome of a proposal in the absence of considering compliance with all other relevant policies. Decision makers are therefore tasked with identifying and understanding all relevant policies and material considerations in order to reach a properly informed planning judgment on a proposal, and to avoid an irrational or vulnerable decision that may be subject to criticism in a public law challenge.
- 5.2 Paragraph 2 of the National Planning Policy Framework ('the Framework') reiterates what is said in Section 38(6), whilst paragraph 12 of the Framework is clear that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 5.3 Paragraph 38 of the Framework encourages local planning authorities to approach decisions on proposed development in a positive and creative way. It also encourages working proactively with applicants to secure developments that will improve the economic, social, and environmental conditions of the area, adding that decision-makers should seek to approve applications for sustainable development where possible.
- 5.4 Annex 1 of the Framework confirms that for the purposes of decision-taking, the policies in the plan should not be considered out-of-date simply because they were adopted prior to the publication of the Framework. It adds that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework, with greater weight being given to those policies that are closer to the policies in the Framework.

Development Plan

5.5 It is understood that the Development Plan for Gravesham within which the Site is located comprises the following documents:

- Core Strategy (2014) (CS)
- Gravesham Local Plan First Review (1994) – Saved Policies

5.6 The CS sets out a long-term vision for the future of Gravesham based on evidence of the need to support communities and outline what makes Gravesham a distinctive and attractive place to live and work. Furthermore, it helps to support and inform sustainable development via investment in infrastructure, economic development, and regeneration proposals within the borough, while promoting healthy communities. Lastly it aims to provide a consistent basis for planning application decisions. The following policies are considered as relevant:

- CS01 – Sustainable development
- CS02 – Scale and Distribution of Development
- CS11 – Transport
- CS19 – Residential Layout Guidelines (previously policy H2)

5.7 The Gravesham Local Plan First Review (1994) was replaced by the adopted Local Plan (2014). In September 2007, the Secretary of State issued a direction on policies to be saved and deleted. The following are policies that have been saved, remain operational and are relevant to your proposal.

- T1 – Impact of Development on the Highway Network
- T5 – Access of Identified Highway Network
- P3 – Vehicle Parking Standards

Other Material Considerations

The Framework

5.8 In summary, the following paragraphs are considered most relevant as additional material considerations in the determination of this application:

- Paragraph 7 - Fundamentality of the planning system
- Paragraph 8 – Three overarching objectives for sustainable development.
- Paragraph 115 – Unacceptable impact on highway safety

Manual for Streets (MfS) (March 2007)

- 5.9 MfS1 (published in March 2007) contains helpful guidance in respect of visibility and frontage accesses. Chapter 7 considers the geometry of streets. This chapter comprises of several parts.
- 5.10 Section 7.9 is entitled frontage access, which reflects the type of access associated with the proposal. The proposed development does not involve the formation of a junction between roads, streets, or lanes. The subsequent parts of this section are of specific relevance:
- 5.11 Paragraph 7.9.1 confirms that the provision of front accesses helps to “generate activity and a positive relationship between the street and its surroundings.”
- 5.12 Paragraph (7.9.2) sets out the four factors that should be considered when considering a frontage access:
- a) The speed and volume of traffic on the street
 - b) The possibility of vehicles turning around within the property where this is possible
 - c) The presence of gathered accesses if individual accesses are not considered acceptable
 - d) The distance between the property boundary and the carriageway – to provide adequate visibility for the emerging driver.

Manual for Streets 2 (MfS2) (September 2010)

- 5.13 MfS2 published in September 2010 confirms that it “builds on the guidance contained in MfS1, exploring in greater detail how and where its key principles can be applied to busier streets and non-trunk roads.” Published in 2010, this guidance is also more up to date than MfS1.
- 5.14 Chapter 9 of MfS2 covers junctions, crossing and accesses, and, as with MfS1, MfS2 contains a specific section on frontage accesses (9.10). Paragraph 9.10.2 refers back to the research referenced in MfS1 noting that there was no indication that traffic of up to 10,000 vehicles per day on roads with frontage accesses would indicate a decline in road safety.
- 5.15 The next paragraph refers back to research referenced in the Highways Agency's Design Manual for Roads and Bridges TD 41/95 (a precursor to MfS1, published in March 1995), which examined the relationship between access frequency and

collisions on 3,000km of all-purpose trunk roads in England including urban, rural, single, and dual carriageways.

- 5.16 Paragraph 9.10.3 in MfS2 confirms that: "the research showed that there was no simple statistical relationship between the number of collisions and the number of vehicular connections in the form of minor junctions and direct accesses."

Householder Extensions/Alterations Design Guide SPD (adopted October 2021)

- 5.17 The SPD makes clear that extensions and alterations to a home can be an economical way of ensuring it can meet a household's present and future needs. In seeking to meet such needs it is important to ensure that any extension or alteration to a home are well-designed, well-built, and sympathetic to their surroundings.
- 5.18 It goes onto say that by doing so we can ensure that there are no adverse effects on the original house, immediate neighbours, the local view of the street, as well as the character and appearance of the local area.
- 5.19 Paragraph 10.21 sets out the most important criteria for the laying of hard surface to the front garden of houses which are as follows:
- Hardstanding should be proportionate to the size of the dwelling and the relevant car parking standards and avoid paving over a significant amount of the forecourt. Soft landscaped planted border along all boundaries should be provided in all spaces not specifically defined as parking or turning spaces.
 - Allow sufficient space between the car and the dwelling to allow access to the front door and side of the property. 1 metre should be the minimum space between or around car parking spaces
 - Front garden parking must be designed to avoid cars overhanging the pavement. Car parking spaces a minimum of 2.5m wide (2.7m where spaces adjoin an enclosed boundary) and 5m deep should be provided.
 - Should not include gates. Where gates already exist, they must not open outwards and should allow enough space for them to be opened inwardly (if relevant) whilst a car is parked.
 - Gates should enable a pedestrian on the footway to have clear visibility of any vehicle exiting (i.e. they should be railings or have some form of transparency) and should not be of a height that blocks visibility of passing pedestrians and should enable visibility from the footway.
 - Avoid removing any existing trees or established hedges and introduce new planting wherever possible.

- Introduce permeable paving to new areas of hardstanding to minimise rainwater run-off issues, as per the requirements of Permitted Development.
- There should be no water run-off from the forecourt onto the public highway.
- Where loose surfacing is proposed, a minimum of 1m depth of non-loose hardstanding should be provided at the front edge of the driveway with the public highway
- Repair or restore any original decorative tiled paths that are a characteristic or historic feature of the existing dwelling.
- Visibility splays should be provided.

5.20 Further material consideration:

- SPG2 – Residential Layout Guidelines (2020)
- SPG4 – Kent Country Council Parking Standards (2006)
- Kent Design Guide – Visibility (2008)
- Kent Design Guide – Making it Happen – Highways (2008)

6 Planning Assessment

Key Issues

- 6.1 The applicant has already obtained pre-application advice from Gravesham Borough Council, (Ref. no PRE20230354) which was positively received in principle. The case officer stated the following:

Any forthcoming proposal should comply with the Householder Design Guide SPD. On this basis, and provided soft landscaping, visibility splays and accident data are provided to support the case, a planning application for a dropped kerb is likely to be considered favourably.'

- 6.2 Given the above summary of the pre-application response, relevant policy, and material considerations it is considered that the key planning issues relevant to this proposal are as follows:

1. Highway Safety
2. Impact on Landscape
3. Parking Provision

1. Highway Safety

- 6.3 The Site is situated along a B classified road (B261) which means the Site must abide by the Gravesham policies surrounding parking as well as householder alterations.
- 6.4 As set out above, paragraph 115 of the NPPF makes clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.
- 6.5 Below is the accident data for the past 5 years for Old Road West. It suggests that the presence of an additional vehicular access would no result in any further accidents.
- 6.6 There have been three incidents in close proximity to the property.
- 6.7 The first accident (1) that took place on 01/10/2018, identified by the orange marker on the furthest right of the map below, was considered 'slight' in severity and involved 2 car drivers aged between 25-34 and involved 2 minor casualties.

- 6.8 The incident occurred between 6am and 9am. The conditions were considered as 'fine and still' whilst the road was considered to be 'dry.' Furthermore, it is clear that the accident occurred on the junction from Elmfield Close onto Old Road West.
- 6.9 The second incident (2) in question identified by the red marker on the map below occurred on 06/08/2021 between 6am and 9am and was considered to be 'serious' in severity. Unlike incident one, it involved one van driver aged between 45-54 and a singular pedestrian aged between 65-74. The conditions were 'fine and still' whilst the road was 'dry.' The accident occurred on the junction from Woodfield Avenue onto Old Road West.
- 6.10 Although this is considered more serious, there is no evidence presented that suggests the pedestrian was injured as a result of a car leaving a driveway across the pavement; it simply states that it was on the junction of Woodfield Avenue, which, in turn further suggests that access to the frontage of properties is not hindered by insufficient visibility splays.
- 6.11 The third and final accident (3) occurred due west of the Site on 06/04/2018 between 9am and noon and was only considered as 'slight'. It involved 2 vehicles, one motorcyclist aged between 35-44 and a van driver aged between 16-24 with only one injury reported to the motorcyclist. The conditions were considered 'fine and still' whilst the road was 'dry.' Again, there is no indication that this accident was associated with a domestic vehicular access.
- 6.12 The accidents are shown below with their corresponding numbers.



- 6.13 The above implies that the addition of the proposed driveway would not cause an impact on highway safety as there is no evidence to suggest such accesses are dangerous within the locality.
- 6.14 Paragraph 9.10.3 in MfS2 supports the idea of frontages having 'no simple statistical relationship between the number of collisions and the number of vehicular connections in the form of minor junctions and direct accesses. Therefore, suggesting the proposal would have little to no effect on the highway safety of Old Road West.
- 6.15 Another issue that has been highlighted is the concern of visibility splays for the driveway. MfS1 highlights in the table below that the required distance of visibility when emerging onto a major road at 30mph.

Table 7.1 Derived SSDs for streets (figures rounded).

Speed	Kilometres per hour	16	20	24	25	30	32	40	45	48	50	60
	Miles per hour	10	12	15	16	19	20	25	28	30	31	37
SSD (metres)		9	12	15	16	20	22	31	36	40	43	56
SSD adjusted for bonnet length. See 7.6.4		11	14	17	18	23	25	33	39	43	45	59
Additional features will be needed to achieve low speeds												

- 6.16 The table is based on the perception-reaction time of the average driver. For a 30mph road, the recommended visibility splay is 43m in each direction.
- 6.17 This figure, however, is aimed at inter-visibility between vehicles on major and minor arms of roads as opposed to access from private frontages.
- 6.18 Although the visibility at 37 Old Road West is below the 43m requirement that was suggested in the pre-application, it is arguable that there will be sufficient vehicular visibility for the new frontage as there is no defined requirement for driveways, only for major and minor arms.
- 6.19 A recent appeal decision in Dartford confirms this and that they are not to be applied to domestic accesses, such as this proposal. (APP/T2215/W/20/3251527).

- 6.20 One of the main reasons behind the refusal at Warner House in Dartford was due to the effect of the use of the access on highway safety.
- 6.21 In the appeal decision it was stated KCC was of the view that the access was substandard due to the limited forward visibility. The final figures were deemed to be 15m to the west and 28m to the east which contends the 43m by 2m that should be available as set out in MfS1 and MfS2.
- 6.22 However, the appeal decision goes onto make clear that 'given what is stated in MfS1 and MfS2, the provision of visibility splays of up to 43m by 2m appears to be applicable at junctions between 'major and minor arms', rather than a junction between a road and an access serving a few dwellings'
- 6.23 It finally concludes that the development's use of access would not have an adverse effect on highway safety.
- 6.24 Despite the above appeal decision being part of a different council, the same standard should be held by KCC when it comes to domestic access.' Both Warner House and 37 Old Road West do not meet the 43m by 2m required set out in the Manual for Streets, however the Warner House appeal decision shows that this is not a factor of detriment for this application.
- 6.25 Furthermore, the visibility splays that are presented at 37 Old Road West are further than those at Warner House
- 6.26 Please see Appendix 1 for the full appeal decision for (APP/T2215/W/20/3251527), specifically paragraph 12 for the issues raised by KCC and how it was resolved.
- 6.27 The pedestrian visibility splays on the proposed drawings show these as being 2m each way at a height of 0.6m to ensure maximum safety for pedestrians.
- 6.28 This will be achieved by omitting the existing gate as well as reducing the height of the proposed soft landscaping that lines the neighbouring wall to the east.
- 6.29 In turn this allows ample visibility for both people leaving the driveway as well as those walking on the path whilst ensuring the space standards for the parking space are met.
- 6.30 Furthermore, it is shown further down Old Road West that a similar application has been submitted to the council.

- 6.31 At the time of writing, the application for number 20 Old Road West remains pending and is for the demolition of a front wall and the creation of a vehicle access and driveway to the front with installation of a dropped curb and associated works to the pathway ([ref. no 20240358](#)).
- 6.32 KCC Highways and Transport have responded to that application by stating that there would be no objection to the application so long as the following were achieved:
- Provision of measures to prevent the discharge of water onto the highway
 - Provision and permanent retention of the vehicle parking spaces shown on the submitted plans prior to the use of the site commencing
 - Use of a bound surface for the first 5m of the access from the edge of the highway
 - Provision and maintenance of 2m x 2m pedestrian visibility splays behind the footway on both sides of the access with no obstruction over 0.6m above the footway level prior to the use of the site commencing.
- 6.33 Key information to be highlighted comes from the final point which mentions pedestrian visibility splays. If KCC Highways and Transport have no objections regarding vehicle visibility, then it can be argued that this should not need to be enforced in connection with the subject proposal at number 37.
- 6.34 Furthermore, the proposal is in line with the MfS, and the four criteria set out in paragraph 7.9.2 for emerging from property frontages which are as follows:
- a) The speed and volume of traffic on the street – *The B261 is a 30mph road showing the traffic is not fast moving so with the correct vision splays for pedestrians, the harm to highway safety will remain low.*
 - b) The possibility of vehicles turning around within the property where this is possible – *There will be no turning circle proposed as a result of the capacity of the parking area, there is only one space so it will not be required. Moreover, the application at number 20 does not provide evidence of a turning circle and no issues were raised by KCC transports.*
 - c) The presence of gathered accesses if individual accesses are not considered acceptable – *This is not relevant to the Site*
 - d) The distance between the property boundary and the carriageway – to provide adequate visibility for the emerging driver. – *The boundary is 2 metres away from Old Road West with the parking space being 4 metres back from the carriageway, allowing suitable pedestrian visibility for the emerging drivers.*

- 6.35 Additionally, the road does not show evidence of exceeding a 10,000 car-a-day limit which as set out by MfS 1,
- 6.36 Also, there is no indication that traffic in excess of 10,000 vehicles per day on roads with frontage accesses would indicate a decline in road safety.
- 6.37 Another key point to the visibility would be the existing single and double yellow lines. It further suggests that the vehicular visibility will not be obstructed by parked cars along the street as it forbids people to do so.
- 6.38 The double yellow lines shown in the images below demonstrate how the sight lines will not be hindered.
- 6.39 Although number 37 has single yellow lines outside its frontage, the double yellow lines start just 5m to the east and 8m to the west.
- 6.40 As well as this, there will be no on street parking outside number 35 as a result of their existing vehicular access, in turn further proving the point of safety.



- 6.41 The Google Image of the street highlights the lack of on-street parking further supporting that the access will not be hindered by parked cars.
- 6.42 Further key information would be that the majority of the properties along Old Road West already benefit from vehicular accesses onto driveways, some of which have similar sight lines to number 37.

- 6.43 Although some of the driveways may have been secured under previous legislation, it shows evidence that they are functional and safe as shown by the accident data above.
- 6.44 More specifically, the neighbours at number 35 face a similar issue with the same dividing wall hindering their vision splays, however the accident data shows that this has not been the cause of any major incidents.

2. Impact on Landscape

- 6.45 As highlighted in the pre-application received from GBC, it was made clear that the retention of the soft landscaping was essential to this application.
- 6.46 As shown in the proposed elevations, what has been lost in soft landscaping to the front of the driveway where the access will be, has been replaced to the east where the current slate chippings are.
- 6.47 Furthermore, closest to the house will have an increase in greenery whereby there will be planting in place of the existing slabs to ensure that the soft landscaping is retained.
- 6.48 The increase of greenery will enhance the soft landscaping as well as ensure none of the existing shrubs or small trees are lost to the proposal.
- 6.49 A final way in which the soft landscape will be retained is the use of grey permeable bound gravel as opposed to solid hardstanding.
- 6.50 This will further enhance the appearance of the Site as well as contributing to the drainage on the Site, ensuring that there is no excessive water runoff onto Old Road West.
- 6.51 As set out above, paragraph 10.21 of the Householder Extensions/Alterations Design Guide SPD sets out the criteria for the laying of hard surface to the front garden of houses which are as follows:
- Hardstanding should be proportionate to the size of the dwelling and the relevant car parking standards and avoid paving over a significant amount of the forecourt. Soft landscaped planted border along all boundaries should be provided in all spaces not specifically defined as parking or turning spaces. – *As shown in the drawings, the driveway will not cover the entire front garden space; the pathway to the front door has been retained as well as the large amounts of soft landscaping.*

- Allow sufficient space between the car and the dwelling to allow access to the front door and side of the property. 1 metre should be the minimum space between or around car parking spaces – *The drawings show the house being divided from the parking spaces with planting.*
- Front garden parking must be designed to avoid cars overhanging the pavement. Car parking spaces a minimum of 2.5m wide (2.7m where spaces adjoin an enclosed boundary) and 5m deep should be provided. – *The driveway is 7 metres in length and 4 metres in width with the parking space being 5m in length and 2.5m in width so therefore abides by the above measurements.*
- Should not include gates. Where gates already exist, they must not open outwards and should allow enough space for them to be opened inwardly (if relevant) whilst a car is parked. – *There is no proposed gates for the development therefore it does not clash with this policy.*
- Gates should enable a pedestrian on the footway to have clear visibility of any vehicle exiting (i.e. they should be railings or have some form of transparency) and should not be of a height that blocks visibility of passing pedestrians and should enable visibility from the footway. – *There is no proposed gate, so this is not relevant.*
- Avoid removing any existing trees or established hedges and introduce new planting wherever possible. – *The planting to the front of the existing garden is being replaced along the east and north of the garden in order to make up for the loss of soft landscaping.*
- Introduce permeable paving to new areas of hardstanding to minimise rainwater run-off issues, as per the requirements of Permitted Development. – *The use of grey permeable bound gravel will reduce the chance of run off into the main carriageway and pedestrian access.*
- There should be no water run-off from the forecourt onto the public highway. – *This again will be resolved by the permeable surface being used for the parking aspect of the driveway. Also, the greenery will aid the reduction of surface runoff.*
- Where loose surfacing is proposed, a minimum of 1m depth of non-loose hardstanding should be provided at the front edge of the driveway with the public highway – *There will be 1m of non-loose hardstanding between the driveway and the public highway.*
- Repair or restore any original decorative tiled paths that are a characteristic or historic feature of the existing dwelling. – *There is no existing historical features to the property, so this is not relevant.*
- Pedestrian and vehicle visibility splays should be provided. – *Visibility splays are shown on drawing 4135-03 – Proposed Block Plan.*

3. Parking Provision

- 6.52 The Gravesham SPG4 states that the maximum number of parking spaces for a 4-bedroom house is 3.
- 6.53 Currently, 37 Old Road West shares a parking area to the rear with number 37a whereby each property has one space each. This was approved in October 2002 (ref. no 20020877)
- 6.54 Therefore, the addition of the proposed development will still remain under the maximum amount of parking spaces allowed for a dwelling of this size.

7 Conclusions

- 7.1 As shown above, the proposed development shows evidence of abiding by all the relevant policies and documents.
- 7.2 The driveway will have a sufficient supply of landscaping shown by the greenery as well as the loose gravel being used for the driveway. As well as this, the path that provide access to the front door will be retained in order to not affect the wider character.
- 7.3 Furthermore, as shown above, and in accordance with Manual for Streets, the driveway will supply sufficient visibility for both cars and pedestrians.
- 7.4 In consideration of all relevant development plan policies and material considerations, this application should be viewed positively by the authority, and it is respectfully requested that this submission is approved.

8 Appendix

- 8.1 Appendix 1 - Appeal decision for Warner House APP/T2215/W/20/3251527 below.



The Planning Inspectorate

Appeal Decision

Site visit made on 22 February 2021

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th April 2021

Appeal Ref: APP/T2215/W/20/3251527

Warner House, Cotton Lane, Stone, Dartford DA9 9BF

- 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 Jamie Perfitt against the decision of Dartford Borough Council.
 - The application Ref DA/18/01501/FUL, dated 13 November 2018, was refused by notice dated 8 November 2019.
 - The development proposed is described as 'to erect a 3 bed detached home on the site of the former garden to Warner House terraces'.
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Decision

1. The appeal is allowed and planning permission is granted for a detached house at Warner House, Cotton Lane, Stone, Dartford DA9 9BF in accordance with the terms of the application, Ref DA/18/01501/FUL, dated 13 November 2019, subject to the conditions set out in the Schedule of Conditions below.

Applications for costs

2. Applications for costs have been made by Mr Perfitt against Dartford Borough Council and Kent County Council. Those applications are the subject of separate Decisions.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - the effect of the use of the access on highway safety; and
 - whether the site would be an appropriate location for an infill dwelling.

Reasons

Character and Appearance

4. The development would involve the construction of a two storey, two bedroom house. The appeal site is an irregularly shaped and has been described as being former garden. The site is set back from Cotton Lane and is elevated, rising from a little over one metre to two metres above the level

<https://www.gov.uk/planning-inspectorate>

Appeal Decision APP/T2215/W/20/3251527

of Warner House's forecourt parking area. Warner House being a two storey building, with basement, that now accommodates three dwellings.

5. The house would be orientated at right angles to and a little up slope of Warner House and would be set back from Cotton Lane by 27 metres¹. Given that siting the house would be discretely situated, with a little under half of its Cotton Lane facing elevation being screened from view by Warner House. I consider there would only be fleeting views of the house and that it would not have a domineering appearance within the streetscene.
6. While the house would be of a simple but inoffensive design, and I consider its appearance would be acceptable and that it would neither detract from the appearance of Warner House nor be at odds with the properties on the northern side of Cotton Lane, including the 16 terraced houses being built at the time of my site visit². I also consider that the provision of an additional dwelling at this point in Cotton Lane would be in keeping with the character of the area within the immediate proximity of the site, given the presence of the existing dwellings and those currently under construction.
7. I conclude that the development would not be harmful to the character and appearance of the area. I therefore consider that there would be no conflict with Policies DP2 and DP7 of the Dartford Development Policies Plan of 2017 (the DDPP). That is because this development would: be acceptably scaled and sited relative to the neighbouring buildings; not be visually obtrusive; and retain the character of the area, while achieving a satisfactory quality of residential development.
8. The second reason for refusal cites conflict with Policy DP5 of DDPP. However, Policy DP5 addresses a range of matters concerning environmental and amenity protection rather than the visual effects of new development. I therefore consider Policy DP5 is not relevant to the concerns identified in the second reason for refusal.

Highway safety

9. Warner House's forecourt parking area is shown on the existing site plan as being capable of accommodating up to four cars without a turning facility. This forecourt area has a direct vehicular access (the access) onto Cotton Lane, a C class road (the C281³), which immediately to the east becomes Elizabeth Street. The access appears to have been created without the benefit of planning permission, with the appellant contending that it has become lawful through the passage of time.
10. Cotton Lane and Elizabeth Street are both subject to a 30mph speed limit. Cotton Lane, for much of its length being wide enough for a single vehicle, with passing places, and it has no footway⁴ and limited streetlighting. Elizabeth Street is wide enough for vehicles to travel in opposite directions and along the whole of its southern side there is a footway and streetlighting.
11. It is proposed that the forecourt area would be extended to enable: four parking spaces to be made available to Warner House's occupiers; two parking spaces

¹ Paragraph 4.3 of the appellant's appeal statement

² Subject to planning permission DA/14/00028/FUL

³ Paragraph 1.3 of the appellant's highway appeal statement

⁴ A stretch of footway will be provided on the northern side of Cotton Lane in association with the development subject to planning permission DA/14/00028/FUL (paragraph 4.1 of the appellant's highway appeal statement)

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to be provided for the proposed house; and a turning area to be formed for the use of the occupiers of all four properties.

12. The highway authority (Kent County Council [KCC]) is of the view that the access is 'substandard' because of the limited forward visibility afforded when emerging onto Cotton Lane. KCC has assessed the forward visibility as being 15 metres to the west and 28 metres to the east and contends visibility splays of 43 metres by 2.0 metres should be available, based on the guidance contained in 'Manual for Street's (MfS1 and MfS2⁵). However, given what is stated in MfS1 and MfS2 (text and diagrams) the provision of visibility splays of up to 43 metres by 2.0 metres appears to be applicable at junctions between 'major and minor arms' (roads), rather than a junction between a road and an access serving a few dwellings.
13. The presence of an extra house would increase the use of the access. However, this development would utilise an access onto a 'C' class road and there is agreement that in each of the morning and evening peak hours⁶ there would be around one half of an additional vehicle movement.
14. The daily additional peak and non-peak use of the access is therefore likely to be modest. In that regard the increased use of this access does not appear to have been a matter of concern to KCC when planning permission DA/17/00602/FUL was granted for the conversion of 1 Warner House into two dwellings. While a safety concern has been raised there is no evidence of the access' use contributing to any accidents. So, while the available forward visibility, particularly to the west, for drivers emerging onto Cotton Lane would be limited I do not consider that the use of this access is inherently dangerous. That is because the access is already accommodating the vehicular movements generated by three dwellings without adversely affecting highway safety. In that regard the limited forward visibility that is available I consider is likely to encourage a cautious approach to the access' use.
15. Some traffic calming works are due to be undertaken in association with the development subject to planning permission DA/14/00028/FUL. Those highway works being subject to an extant agreement under Section 278 of the Highways Act 1980⁷ and will include the installation of a speed cushion with a road narrowing not far west of the access. KCC contend that '*There is little evidence that this isolated scheme will slow speeds below the posted speed limit*'. That proposition seems implausible, because if the installation of the speed cushion and road narrowing were not intended to reduce vehicle speeds, then there would be no reason for their installation. I am therefore not persuaded that following the undertaking of the traffic calming works there would not be some reduction in the speed of vehicles travelling in both directions within the immediate vicinity of the access. I also accept the appellant's view that if a conflict between eastbound traffic and vehicles emerging from the access was likely to arise, then what is now an approved road narrowing, would have been unlikely to have passed the safety auditing undertaken in connection with the Section 278 procedure.

⁵ 'Manual for Streets' (MFS1) and 'Manual for Streets Wider application of the principles' (MFS2) having respectively been published in 2007 and 2010

⁶ Morning between 08:00 and 09:00 and evening 17:00 and 18:00

⁷ Paragraph 4.2 and Appendix 7 of the appellant's highway appeal statement

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16. Any possible conflict between the increased use of the access would, in any event, only arise should there be vehicles passing by the access at times when a vehicle was also in the process of emerging onto Cotton Lane. That would potentially be a low frequency occurrence, given the modest traffic generating nature of the appeal development.
17. The provision of a turning area would potentially enable all vehicles entering or existing the forecourt area to do so in a forward gear. The provision of the turning area would not address the forward visibility for drivers emerging onto Cotton Lane that lies at the heart of KCC's concern. However, the availability of a turning area would potentially end the need for vehicles using the access to either reverse in or out of the forecourt area and I consider that would reduce the potential for less safe reversing manoeuvres and would be advantageous.
18. I conclude that the development's use of the access would not have an adverse effect on highway safety. I therefore consider that the development would accord with Policies DP3, DP4, DP5 and DP7 of the DDPP because it would not result in a 'severe impact' on the safety of road users, with the vehicular access arrangements for the new development being appropriate, having regard to highway capacity and safety. I also consider that there would be no conflict with paragraph 109 of the National Planning Policy Framework (the Framework) because there would be no '... unacceptable impact on highway safety ...'.
19. The first reason for refusal contends that there would be 'significant harm to ... amenity'. However, neither the Council's officer report nor appeal statement elaborate on what the alleged harm to amenity (living conditions) might be. For completeness, I consider that the additional use of the access would not cause unacceptable disturbance to the occupiers of Warner House or increased on-street parking and in those regards there would be no conflict with Policy DP7(3)(d) of the DDPP.

Location

20. The appeal development concerns an unallocated site and is a residential windfall site for the purposes of Policy CS10(4) of the Dartford Core Strategy of 2011 (the CS). The suitability of residential windfall sites is to be considered in line with Policy CS10(4) and the guidance contained in the Council's Housing Windfall Supplementary Planning Document of 2014 (the SPD). The SPD explains that windfall development is to be managed to ensure that the Council's strategy for the delivery of housing within three priority areas and/or on large scale previously developed land (PDL) is not undermined and that any such development is sustainable and does not place undue pressure upon the available infrastructure.
21. Building upon the provisions of Policy CS10(4), Policy DP6(2) of the DDPP sets out the policy for the consideration of 'sustainable residential locations'. Policy DP6 specifically addresses 'unplanned windfall residential development and states that such development may be permitted following an assessment that accords with Policy CS10(4) and (5) and Policy DP6(2) and (3). Under Policy DP6(2) there are three assessment criteria (a to c) which relate to proposals for 'five or more dwellings' and those criteria are not applicable in this instance. Policy DP6(3) states '*Residential development should provide evidence proportionate to the scale of the proposal that it will not result in*

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unacceptable or unforeseen cumulative impacts on social, community or green infrastructure that cannot be mitigated’.

22. Given the site’s state of disuse there is disagreement between the appellant and the Council as to whether this proposal would concern either a greenfield site or PDL. PDL is defined in Annex 2 of the Framework as being ‘*Land which is or was occupied by a permanent structure, including the curtilage of the developed land ... This excludes: ... land in built-up areas such as residential gardens ...*’. The site was formerly used as garden land in connection with Warner House’s occupation and it is currently unused. While it is unclear how the site might lawfully now be used, for the purposes of the determination of this appeal I consider it reasonable to consider the most likely use for the site would be as garden land. The Council contends that the site should be considered as greenfield land, because it was formerly used as garden land and is located in a built up area, thus excluding it from the definition for PDL. The appellant by contrast has argued that the site should be viewed as being outside ‘any existing communities’ with the site being situated between the built up areas for Stone and Greenhithe.
23. I am of the view that this site cannot sensibly be said to be outside the built up area, given just how much built development there is within a few hundred metres of it to the north (ie to the north of the railway line) east, south and west. I consider that the site might best be characterised as being situated within an enclave of underutilised land within the urban area that lies between Cotton Lane, Stone Place Road and London Road. However, the character of the western half of that area of underutilised land is set to change with the construction of a school and some housing and the provision of an extensive tract of public open space⁸.
24. On the information available to me I therefore consider that this site does not come within the definition for PDL. However, that said I do not consider that this site can be said to be greenfield land in its truest sense because it has previously been in use as garden land. If I am incorrect in reaching the latter view, I consider that the resulting conflict with Policies CS10(4) and DP6(3), of itself, should not amount to a reason for withholding planning permission in this instance. That is because I consider the provision of one house on an unallocated site, of itself, would not frustrate the bringing forward of much larger numbers of new homes on PDL. I am also of the view that the provision of a single dwelling in this location would be very unlikely to generate a level of infrastructure demand that would interfere with the bringing forward of much larger schemes on PDL.
25. The Council has suggested that the location of the site relative to everyday services and facilities would mean that there might be a high dependency on car usage amongst the occupiers of the house. I do not find that proposition to be persuasive, given that the house would be located within what is essentially a built up area. In that regard I consider that the walking and cycling distances to train and bus services or other facilities such as schools and shops would not be so unreasonable as to act as a major deterrent and cause the occupiers of the house to be reliant on car usage.
26. I am also of the view that the consideration of the appeal development cannot be undertaken in isolation from the 18 houses in Cotton Lane granted

⁸ As shown on the masterplan included as Appendix 8 to the appellant’s appeal statement

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planning by the Council in the last ten years or so under application references DA/10/00498/FUL and DA/14/00028/FUL. The later of those permissions having been granted permission in March 2014 and was for 16 houses and a multi-use hall just to the west of Warner House. The accessibility to everyday services and facilities amongst the occupiers of those 16 houses would essentially be the same as that for the occupiers of the house subject to this appeal. This location seemingly having been no impediment to the granting of planning permission for the aforementioned 16 houses, with their permission postdating the CS's adoption.

27. No information concerning the granting of permission DA/14/00028/FUL has been submitted by either the appellant or the Council and I do not know the circumstances that led to that permission. However, having seen where the 16 houses are located, I fail to see how the appeal development would be in a location that can now be construed as being materially less accessible to everyday services and facilities.
28. Attention has been drawn to two dismissed appeals, Downs Lodge⁹ and Tudor Court¹⁰, for which the Inspectors identified unacceptable conflict with Policy CS10. In determining those appeals, the Inspectors found that the occupiers of the proposed dwellings would have poor access to public transport services and other local facilities. In considering the proposal before me I have found that there would be an acceptable level of access to everyday services and facilities. I therefore consider that the proposal before me is distinguishable from the proposals concerning Downs Lodge and Tudor Court.
29. For the reasons given above I conclude that this would be an appropriate location for an infill dwelling. Although there would be some conflict with Policy CS10(4) of the CS and Policy DP6 of the DDPP, because this proposal would concern a windfall site, I do not consider that conflict of itself to amount to a bar to planning permission being granted in this instance. That is because I have found in accessibility terms this would be a sustainable location for one dwelling, with the occupation of the house having no adverse effect on infrastructure capacity in the area. For the reasons given above, in considering the development's effects on the character and appearance of the area and highway safety, I have also concluded that there would be no other harms.
30. The third reason for refusal cites conflict with Policy CS1 (spatial pattern of development) of the CS. Policy CS1 seeks to maximise regeneration benefits, by focusing new development within three priority areas. One of those areas is the Ebbsfleet to Stone Priority Area, where the intention is to bring back into productive use former quarries. While the appeal site is within the Ebbsfleet to Stone Priority Area¹¹ the Council has provided no explanation within its appeal evidence as to why the appeal development would be contrary to Policy CS1. Given the scale of the appeal development and no indication that the availability of the site would help in bringing a former quarry back into productive use, I consider there to be no conflict with Policy CS1. I am therefore of the view that this proposal would not frustrate the spatial pattern for development identified in the CS.

⁹ APP/T2215/W/17/3173649

¹⁰ APP/T2215/W/18/3198564

¹¹ Based on Diagram 5 which accompanies Policy CS4 of the CS

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31. There is disagreement about the relevance of Policy CS4 of the CS to the consideration of this proposal. Policy CS4 specifically concerns the Ebbsfleet to Stone Priority Area and amongst other things it identifies this area as being the location for the provision of 7,850 homes by 2026. The appeal development would make an extremely small contribution to the delivery of new homes intended for the priority area. While the appeal development would therefore comply with Policy CS4, I consider that compliance with the development plan is not determinative in this instance.

Other Matters

32. Concern has been raised that the proposed development would affect the receipt of light to and outlook from Warner House. I consider the siting and orientation of the proposed house relative to Warner House would mean that there would be no adverse effects for the occupiers of Warner House with respect to the receipt of light or outlook. Any adverse overlooking of neighbouring gardens could be addressed through the installation of boundary fencing, a matter capable of being addressed through the imposition of a condition.
33. There is potential for the construction works to cause some inconvenience to the occupiers of Warner House, however those works would be of a temporary nature and some aspects would be capable of being controlled through the imposition of a condition, something I return to below.
34. Matters relating to land ownership, including what any Deeds may or may not permit, are not planning considerations and are not for my consideration. Similarly, any structural effect that the development might have upon adjoining properties would be a civil matter rather than a planning one.

Conditions

35. I have considered the need for the imposition of conditions, having regard to the Council's nine suggested conditions and the provisions of the national policy and guidance for the use of conditions.
36. Apart from the standard time limit condition, it is necessary that the development be built to accord with the submitted plans for certainty. To safeguard the appearance of the area it is necessary for conditions requiring details of the external materials and boundary enclosures be submitted to the Council for approval. To ensure the availability of on-site parking for the occupiers of the development and Warner House and to safeguard the operation of the public highway it is necessary that a condition be imposed requiring the provision of the parking and turning facilities for the duration of the development's occupation.
37. The third suggested condition would require a construction method statement to be submitted for the Council's approval prior to the development's commencement. Matters covered by the suggested condition are intended to minimise the construction effects upon the occupiers of the adjoining dwellings and the operation of the public highway. The appellant has objected to the imposition of this condition because of the development's modest scale. Although only one house would be constructed that would be in close proximity to Warner House and there would be potential for the works to adversely affect the living conditions of the occupiers of that property. The

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injudicious use of the public highway for loading/unloading and the storage of plant and equipment could also adversely affect its operation. I therefore consider that the suggested condition should be imposed. That said I see no need for the installation of security hoardings to be covered by an approved statement given the scale of this development.

38. Given the site's proximity to the former 'Stone Pot 1' landfill site I consider it reasonable for landfill gas mitigation measures to be incorporated into the development's design. I have therefore imposed a condition requiring the implementation of the mitigation measures recommended in the submitted Preliminary Environmental Risk Assessment report.
39. The fourth suggested condition would require approval of the details for the proposed retaining wall along the site's western boundary to safeguard the appearance of the area. Any retaining wall along the site's western boundary would be modest in scale and discretely located and is unlikely to be a tall structure. I therefore consider that there is no need for the suggested condition.
40. The ninth suggested would remove the permitted development rights for the construction of extensions and other structures and additions. I consider there is no need for this suggested condition as the means to either safeguard the appearance of the area or the living conditions of the occupiers of Warner House, given the siting of the proposed house and the size of its plot. Nor do I consider it necessary for the imposition of this condition to address the proximity to the former landfill site, given the imposition of the previously mentioned mitigation condition.

Conclusions

41. For the reasons given above I have found that the development would have no adverse effect on the character and appearance of the area or highway safety, resulting in compliance with the parts of the development plan concerning those issues. In assessing the suitability of the site as the location for a house, I have found that there would be some conflict with Policy CS10 of the CS and Policy DP6 of the DDPP. However, under the circumstances of this case I consider that conflict represents a minor breach of part of the development plan and that when this proposal is assessed against the provisions of the development plan as a whole, there would be no unacceptable conflict.
42. As I have found that this development would result in no unacceptable conflict with the development plan as a whole, I consider there are no disbenefits that need to be weighed against any benefits. I therefore conclude that the appeal should be allowed.

Grahame Gould

INSPECTOR

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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: 00 002 (Location and Ownership plan); 00 003 (Proposed site plan); 00 004 (East and West elevations); 00 005 (North elevation); 00 006 (South elevation); 00 007 (Side elevation); 00 008 (Ground floor plan); 00 009 (First floor plan); and 00 010 (Road splay diagram).
- 3) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include details of:
 - a) wheel washing/the prevention of mud and debris on the public highway;
 - b) the loading and unloading of plant and materials;
 - c) the storage of plant and materials used in constructing the development;
 - d) the location and details of any generators;
 - e) measures to control the emission of dust, dirt, noise and vibration during construction works; and
 - f) the working hours, including the hours for deliveries.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Prior to the development proceeding above slab level, details and samples of the external facing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) Gas remediation measures shall be implemented during the construction of the development in accordance with the recommendations stated in the Preliminary Environmental Risk Assessment report of 3 May 2019 prepared by Argyll Environmental. Prior to the occupation of the house a report verifying the implementation of the gas remediation measures, including the results from third party testing of the effectiveness of the measures, shall be submitted to the Local Planning Authority.
- 6) Prior to the occupation of the house hereby approved, details of all of the boundary enclosures shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved boundary treatment details and thereafter the approved boundary treatments shall be retained.
- 7) The car parking spaces and turning area shown on drawing 00 003 shall be made available for use prior to occupation of the house hereby approved. The parking spaces and turning area shall be kept available for such use at all times and no development, whether permitted or not by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) shall be carried out in the parking spaces or turning area that would preclude vehicle parking or turning.