

**Shipbourne**  
Borough Green And  
Long Mill

**557850 151860**

**28.10.2005**

**TM/05/02436/FL**

Proposal: Creation of new access and realignment of hedge  
Location: The Meadows Hildenborough Road Shipbourne Tonbridge  
Kent TN11 9QA  
Applicant: Mr + Mrs T Mullally

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**1. Description:**

- 1.1 The proposal seeks planning permission to create an additional permanent vehicular access to the site directly from Hildenborough Road and to realign and replant the mature boundary hedge, to set it further back from the highway.
- 1.2 The existing and long-established access to the site is via a track that runs adjacent to the eastern boundary. This track also serves as access to a number of other properties. The applicants propose to retain this existing access.
- 1.3 It is proposed to grass the area where the hedge is currently located, thus creating a wider verge.
- 1.4 The application plans have been amended following initial concerns over their accuracy, but I am now satisfied on this point.

**2. The Site:**

- 2.1 The site is located outside the village confines of Shipbourne, in the Metropolitan Green Belt and in a Special Landscape Area. Opposite the site is an Area of Outstanding Natural Beauty. The driveway leading to the existing entrance to the site from Hildenborough Road is not in the applicants' ownership. The site is currently well screened by mature hedges and trees.
- 2.2 There is at present a temporary entrance to the site along Hildenborough Road, in a similar position to the proposed access. This was used by contractors' vehicles when constructing the replacement dwelling. This access is unauthorised, but has been tolerated on an informal basis as a temporary expedient during the construction works but the need to replant this part of the hedge is the subject of current dialogue with the owner.
- 2.3 Hildenborough Road is a classified road. It is generally a winding, rural country lane and is subject to a 60mph speed limit.
- 2.4 At the time of the site visit the dwelling that was to be replaced was still standing. It is a requirement of the planning permission for the replacement dwelling that the old house and some outbuildings are demolished within one month of occupation of the

replacement dwelling. This is a separate issue to the current planning application for the access but is the subject of potential action in breach of the condition.

### 3. Planning History (most relevant):

- 3.1 TM/05/00546/ORM Approved 26.04.2005  
Minor amendment to planning permission ref. TM/00/02509/FL (demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage) involving alterations to positioning of single storey projection on rear elevation.
- 3.2 TM/04/02140/FL Approved 12.08.2004  
Application under Section 73 to vary condition 10 of consent ref. TM/00/02509/FL (demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage) to alter the ground level at which the dwelling is constructed.
- 3.3 TM/04/00952/ORM ORM Refused 16.08.2004  
Minor amendment to planning permission TM/00/02509/FL (demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage) involving dormer windows and loss of dormer window on side elevation.
- 3.4 TM/00/02509/FL Granted 06.07.2001  
Demolition of existing dwelling, outbuildings, stable block and workshop/garage and erection of new dwelling and detached garage.

### 4. Consultees:

- 4.1 PC: The key concern of the parish council in this application is one of road safety.
- New access: *Objection on the grounds of safety.* The proposed new access is nearer to the blind bend when approaching from the east; it therefore does not have better visibility. As an exit it is considerably more dangerous. This is contrary to the claim by the applicants' agent that it would be a safer exit. Examination of the latest plan confirms that the line of sight does not improve by moving the hedge back and that the line of sight towards the east is limited by the telegraph pole and neighbour's hedge. There would be significantly less visibility from the proposed new access.

New information received states that the applicants also wish to retain the use of the existing access. This surely defeats the main reason for their desire to create the other opening. If as they say (*and the council does not agree*) that the existing access is "severely sub-standard" and of "inadequate width" and "entry and exit from the site presents significant safety challenges" then they (and this would apply to any subsequent owner of the dwelling who would not

be aware of these views) should not consider preserving these perceived 'dangers'. Retention would confuse common use and allow the real hazard of two points of entry and exit at the property to the Hildenborough Road.

- Realignment of hedge: *Objection on conservation, landscaping and legal grounds.*

Without repeating the conservation issues and guidelines of which the Borough Council will be aware from previous correspondence, Shipbourne Parish Council would like to point out a) that it is extremely unlikely that a hedge of this age would survive the move (thus losing its environmental impact) and b) that the 'landscape specialist' referred to by the applicants' agent is in fact a landscape contractor, not a specialist in conservation.

4.2 KCC (Highways): Whilst the site historically benefits from an access from the existing shared access, this is substandard by current requirements as it emerges onto Hildenborough Road.

The proposed access is some 25m west of the existing access and currently emerges through an established hedge line. The proposal is to set back the hedge 2m to the south thus providing sightlines which are an improvement when compared to the existing arrangements. As a consequence, the proposals also improve the sight lines to the west of the existing access.

	West nearside edge of carriageway (metres) ('y' distance)	West to centre line of carriageway (metres) ('y' distance)	East nearside edge of carriageway (metres)	'x' distance (depth in metres into the access)
Design Requirement	90 (70min)	n/a	90 (70min)	2
Existing combined residential access	20	33	177	2
Existing Improved	51	74	177	2
Proposed	33	45	120	2

Based on the assumption that Hildenborough Road is a major access road, it is accepted that the 'x' distance (edge of carriageway into an access) is to be 2metres. The 'Y' distance (measurement along the edge of carriageway) is determined by the 85% wet weather speed and this is common to all of the accesses and assumed to be 52 mph as the national speed limit applies.

The proposal impacts on highway safety in two ways. Firstly, sight lines for the existing combined residential access would be significantly improved to the west.

Secondly, the proposal offers the opportunity for the reduction of traffic using the existing access.

Therefore, on balance, these proposals along with the suggested closure of the existing access result in a highway betterment.

4.3 Private Reps: 4/0S/0X/4R. The grounds of objection may be summarised as follows:

- The existing shared access is far safer than the proposed access;
- The proposed access is considerably closer to the blind bend when looking west. The crest of this corner is where the electricity pole is sited;
- Realigning the hedge will not solve the problem of the blind bend, which given the growing volume of traffic on this road in the early morning and late evening, is already a hazard, which creating this extra exit will only exacerbate;
- The only way to improve visibility of the proposed access on the blind bend would be to remove a large section of hedge owned by East House;
- If the existing exit onto Hildenborough Road is so dangerous, why has it been allowed to remain for so long and why are the applicants keen to retain it now?
- The minimal visibility to the west of the existing access is due to the applicants not regularly maintaining their hedge to a safe length as others do along Hildenborough Road;
- It is not worth moving the hedge back because it could soon grow back over the verge, restricting visibility;
- The road beyond the overhanging trees is prone to black ice, close to the proposed access, and therefore the proposed access will result in additional highway hazards;
- Cars travelling along blind bends are forced off the road. It would be dangerous to have vehicles waiting to exit near this blind bend;
- The proposed access would be along a narrow part of Hildenborough Road, and would therefore result in highway hazards;
- The contractors have fixed signs on the utility poles on the far side of the road reading SLOW CONTRACTORS CONCEALED ENTRANCE. The contractor must think that this is a concealed entrance, otherwise why have they fixed a warning sign?

- Vehicles turning towards Hildenborough may need to swing into the opposite carriageway in order to turn onto the road, presenting additional hazards to the highway;
- Utility vans visiting the site would need to stop on the blind bend, forcing passing vehicles on to the opposite side of the carriageway;
- The electricity pole marks the edge of the site. The plans show that it is proposed to reposition the hedgerow beyond the pole, outside the applicants' ownership;
- In considering the application, factors relating to the original planning application for the replacement dwelling should be considered. Throughout the construction of this replacement dwelling, alterations have been made that mean that what has been built is different to what was originally understood;
- New access points in this part of Kent have often led to lights on gates and other peripheral developments detrimental to the rural locality;
- Condition 11 was reimposed on the development to legalise various breaches of planning conditions in August 2004. The applicants have never appealed against this condition;
- There is a possibility of damaging the underground cables, which are adjacent to the existing hedge, or the roots;
- The hedge could grow back quickly over the verge;
- The proposed hedge line would be alien to the hedgerow line of Hildenborough Road;
- South East Water have imposed a complete ban on hoses for watering plants in this area, which is still in force and legally enforceable. They state that the hosepipe ban is likely to continue throughout the coming summer;
- Movement of the hedge would result in a loss of habitat for wildlife and nesting birds, contrary to the Wildlife & Countryside Act 1981;
- The proposal would mean that conditions relating to the provision, surfacing and drainage of specific areas within the site would be over-ridden and would result in a breach of the landscaping condition by taking over areas designated as lawn and shrubbery;
- Bad husbandry by the applicants has resulted in the hedge growth protruding over the highway verge to an unacceptable depth. Hard pruning would reinstate visibility to the west;

- If the Council were to approve the proposed access, subject to the existing access being permanently closed off, would they be able to enforce such a condition? The Meadows has legal rights up and down part of the existing private drive.

**5. Determining Issues:**

- 5.1 The main determining issues associated with the application relate to whether the proposal will have a detrimental impact on the amenity of the locality and whether the proposal will be detrimental to highway safety.
- 5.2 Policy T19 of the KSP states that development will normally be refused which involves the construction of a new access onto the primary or secondary road network, where an increased risk of accidents or significant traffic delays may result.
- 5.3 Policy P4/11 of the TMBLP states that development proposals must not harm the particular character and quality of the local environment, and wherever possible should make a positive contribution towards the enhancement of the area.
- 5.4 When planning permission was granted for the replacement dwelling it was on the basis that it would use the existing access. Therefore, whilst the replacement dwelling might generate some limited additional traffic movements compared to the original dwelling, the existing access was found to be acceptable at the time of granting planning permission for the replacement dwelling. Since planning permission was granted for the replacement dwelling, there has not been any change in circumstances in this regard, either on the site or in terms of planning policy.
- 5.5 The proposed access is 25m to the west of the existing access.
- 5.6 The sightlines to the west of the existing access fall well below the normal design requirement for this type of road. KCC (Highways) has confirmed that the proposed access would benefit from longer sightlines than the existing access currently has. In addition, the west-facing sightlines from the existing access would be significantly improved through the setting-back of the hedge. The sightlines to the east of the existing access are in excess in the design requirement and would remain unaltered. The sightlines in this direction from the proposed access are less than from the existing access, but would still be in excess of the design requirement.
- 5.7 Given that the existing access from the shared track onto Hildenborough Road is historical, there are no planning conditions that require visibility splays to be maintained. Should planning permission be granted for the proposed new access it would be possible to condition that visibility splays serving the new access, and those to the west of the existing access, are maintained.

- 5.8 I do not consider that there is significant justification for requiring the applicants to close off the existing access to the site should planning permission be granted. Closing off the existing access would only eliminate vehicles from one dwelling using the existing access. Moreover, should planning permission be granted, the applicants would be realigning the boundary hedge, which would improve visibility from the existing access. I do not therefore consider that such a condition could be justified on the basis of securing an improvement to highway safety.
- 5.9 I note the concerns raised regarding utility vehicles having to stop on the blind bend. I cannot see any reason to believe that the proposal will alter current arrangements in terms of delivery vehicles. If the existing access is to be retained, vehicles could continue to use this access. Furthermore, it is common practice for utility vehicles to pull off the highway where possible in rural areas.
- 5.10 I note the comments raised regarding proposed work to the hedge outside the applicants' ownership. Any planning permission granted does not purport to convey any legal right to undertake works outside the ownership of the applicants without the consent of the relevant owner.
- 5.11 In light of all these factors I do not consider that the proposed access would result in an increased risk of accidents on the highway. Indeed, there would be some identifiable improvements to highway safety through more satisfactory sightlines. On this basis, I conclude that there are no highway safety reasons to justify refusal of the application.
- 5.12 When planning permission was granted for the replacement dwelling (TM/00/02509/FL), condition 11 stated that:
- 'the existing hedge located on the front boundary of the site shall be retained at all times. It shall not be lopped, topped, uprooted or wilfully destroyed without the prior written consent of the Local Planning Authority, and any planting removed with or without such consent shall be replaced within 12 months with suitable stock adequately staked and tied and shall thereafter be maintained for a period of ten years.*
- Reason: In order to protect the appearance and character of the site and locality.'*
- 5.13 Although the proposed re-positioning of the hedge would result in a wider verge and a more open aspect to the road at this point, on balance I am of the opinion that this would not have an unacceptable impact on the amenity of the surrounding locality. However, an assessment needs to be made as to whether the process of relocating the hedge is, in itself, likely to be successful because, if it were not, this would undoubtedly have a detrimental impact upon the character and amenity of the locality.

- 5.14 The applicants have submitted a letter from a landscape specialist setting out the proposed method for realigning the hedge. It is proposed to move the hedge in the dormant period by excavating either side of the hedge with a small digger and transplanting the hedge in small sections to the new trench. It is then proposed to backfill the plants with soil and erect a frame to tie the plants to, so as to minimise movement of the roots by settling in. The area would be covered with mulch to give warmth to the ground and aid water retention. Should any plants die it is proposed to replace them with the same size plants. Following this, the landscape specialist proposes to check the plants on a two weekly basis, when any pruning or other works required will be carried out.
- 5.15 With any movement of large plants, a degree of failure is expected. With such a mature hedge, the overall health of the hedge is likely to be reduced. Given that a condition was placed on the original planning permission for the replacement dwelling to retain the hedge in the interests of amenity, I am of the opinion that any deterioration in the robustness and integrity of the hedge as a result of the proposal would result in a loss of amenity of the locality. In all the circumstances, I am far from being convinced that the relocation of the hedge is capable of being undertaken in a way that preserves the degree of amenity the hedge currently provides. The risk is simply too high bearing in mind the importance placed on the hedge in the context of the planning permission for the new house.
- 5.16 Issues relating to the impact of the proposal on underground cables are not a material planning consideration. The installation of additional lighting at the entrance could be controlled through condition.
- 5.17 To summarise, the applicants have provided no clear justification for their requirement of a new access to the site bearing in mind that an access already exists. Although, overall, the proposal might bring with it some minor benefits to highway safety, this must be balanced against the likely impacts on amenity, were the proposed hedge relocation to fail or be less than wholly successful, I consider that such circumstances would be seriously harmful to the character and setting of this site, Hildenborough Road and this rural locality as a whole. On balance, therefore, I consider that this is a serious risk that is the determining factor in this case.

## **6. Recommendation:**

### **6.1 Refuse Planning Permission** on the following grounds:

- 1 The proposal would be detrimental both to the character, appearance and to the amenities of this rural locality, contrary to Policy P4/11 of the Tonbridge and Malling Borough Local Plan 1998. (GR10\*)

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