

**Birling  
Downs**

**567889 160375 5 July 2010**

**TM/10/01744/FL**

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Proposal: New vehicle access and entrance gates (resubmission of TM/10/00561/FL)  
Location: 19 Ryarsh Road Birling West Malling Kent ME19 5JW  
Applicant: Mr Graham Sullivan

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**1. Description:**

1.1 The application proposes a new vehicle access to Ryarsh Road with new entrance gates and pillars set back 6m from the highway.

**2. Reason for reporting to Committee:**

2.1 The application has been called to Committee by one of the local Members due to concerns over highway safety.

**3. The Site:**

3.1 The subject site is located on the south side of Ryarsh Road in Birling. It accommodates a dwelling that is part of a large ragstone building that has been converted into two dwellings. Access to the site is currently via a private drive accessed off The Close, to the north east. This access way crosses the grounds of a neighbouring dwelling and serves 2 neighbouring residences, in addition to the application property.

3.2 The site is located within the village confines of Birling, the Birling Conservation Area and an Area of Outstanding Natural Beauty (AONB).

3.3 The locality consists of residential properties along the southern side of Ryarsh Road, with farmland to the south and to the north across the highway.

**4. Planning History:**

TM/77/10176/FUL Grant with Conditions 30 December 1977

Erection of freestanding carport for two cars.

TM/85/10862/FUL Grant with Conditions 30 August 1985

Detached double garage.

TM/10/00561/FL Application Withdrawn 21 May 2010

New vehicle and pedestrian access to Ryarsh Road

**5. Consultees:**

- 5.1 PC: The Parish Council considers the supporting arguments to be specious and the revisions to be of too little significance to persuade it not to repeat the same objections it raised on 18 May 2010 in respect to the earlier application.
- 5.2 Earlier PC comments (18.05.2010): The Parish has very serious concerns over the safety aspect of this application for access, considering it to be extremely dangerous, unless clear line of sight can be provided in each direction, particularly towards Ryarsh.
- 5.3 KHS: No objections to the proposals in respect to highway matters subject to conditions being imposed. The details of the proposed vehicle access as shown on drawing number 1178/1 are acceptable and would accord with pre-application discussions. The applicant will need to liaise with Kent Highway Services (KHS) regarding all works affecting the public highway. The integrity of the public highway must be maintained and all works required will be done to KHS specification and satisfaction. Surface water from private areas must not discharge onto the public highway.
- 5.4 Private Reps: 5/0S/2R/0X plus Article 8 site notice and Conservation Area press and site adverts. Two letters received, objecting on the following grounds:
- The access point is to be close to the garden fence of No.23.
  - The new driveway may impact on the tree near the common boundary.
  - An issue with highway safety as the road is narrow and there are no sight lines for vehicles travelling from Ryarsh.

**6. Determining Issues:**

- 6.1 This application is a resubmission of planning application ref: TM/10/00561/FL. The previous application was withdrawn due to the plans and details not being sufficiently detailed to adequately justify the proposals.
- 6.2 The current application proposes a new access with splays and entrance gates set back a minimum of 6m from the highway and approximately 5m from the front property boundary. Dwarf ragstone walls are proposed both sides of the gates with reinstatement of the existing corrugated iron fence and landscaping.
- 6.3 The main issues centre around the impact of the proposal on highway safety and whether it would have a detrimentally harmful impact on the Conservation Area and AONB.
- 6.4 Concerns have been raised by the Parish Council, local Members and the public in relation to the impact the new access will have on highway safety along this section of Ryarsh Road. The access is to be sited just to the east of the brow of

the hill on the approach to Birling. The road also bends gradually. The applicant has argued that in respect of highway safety the new access will be a betterment to that currently provided from The Close. However, although the proposed access may provide more immediate and direct access for the application property, the existing access via The Close is in my opinion quite satisfactory and, arguably substantially safer than that proposed.

- 6.5 However, the highway authority, Kent Highway Services (KHS) has stated that it has no objection to the proposal in relation to highway matters, subject to conditions. It is noted that pre-application discussions between the applicant and KHS prior to this application resulted in splays and details being provided that are to the satisfaction of the highway authority. Therefore, although I have some reservations about the location of the proposed access, given the assessment of the highway authority that no significant harm to highway safety would result, it would be difficult to sustain an argument that the proposal fails to comply with policy SQ8 of the MDEDPD.
- 6.6 The reason for the new entrance in the proposed position is understood. Currently No.19 gains access from the shared right of way that runs along the front of the properties to the northeast. The proposed new access would provide direct access to No.19 in a more conventional and linear way and would also provide more privacy for the dwelling whose garden the existing access crosses. However, the benefits of the new access functionally need to be weighed against its effect on the Conservation Area and AONB.
- 6.7 The site is within the Birling Conservation Area which is a designated heritage asset as outlined in PPS5 (Planning for the Historic Environment). Policy HE9.5 of PPS5 states that

*“when considering proposals, local planning authorities should take into account the relative significance of the elements affected and its contribution to the significance of the conservation area.”*

Further to this, policy HE10.1 states that LPAs

*“should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset.”*

- 6.8 The new access will result in the removal of a section of fencing and landscaping adjacent to the highway in front of the application site. Although the fencing itself is of corrugated iron, this site frontage is currently characterised by shrubs and young trees located behind the fence which makes for an enclosed, but green and attractive approach to the centre of the village. The Conservation Area not only takes in the properties at No.15 and 19 but also the front landscaped area extending from The Close and lying between the existing private access way and the highway. An Area Tree Preservation Order (TPO) in place since 1977 lies

within this landscaping strip. Although the proposal lies just outside of the Area TPO, it provides an important visual extension to this protected landscaped area which is integral to the established visual amenity and character of the Conservation Area. It is considered that the new access and entrance gates, by removing and modifying a 10-11m section of the established landscaping, would severely interrupt this distinct and attractive street-scene to the detriment of the Conservation Area. Although the proposal provides gates, pillars and dwarf walls that are similar to those existing at The Close entrance, in my view, this is insufficient to outweigh the damaging impact that the creation of the opening within the established street-scene for the new access will have on the Conservation Area. The proposal is therefore contrary to PPS5 and policies CP24 and SQ1. The proposal would also not result in a high quality sustainable environment and is therefore also contrary to policy CP1.

- 6.9 It can be argued that the access would provide a better configuration within the site and would improve the setting with the house. However, any improvement in setting with the house is not considered to outweigh the damage the new access will inflict on the important elements of the Conservation Area, in this case being the established landscaped approach to the village centre.
- 6.10 The proposed access would not result in any harmful impact on the neighbouring property to the southwest. It is set back from the side boundary by 1.8m and would not impinge on trees within the front garden of the neighbouring property. In addition to the application site (No.19), the applicant also controls the adjoining property to the northeast (No.15). The proposal would visually separate these two properties. The proposal would thus not be detrimental to the residential amenities of neighbouring properties.
- 6.11 The proposal would not in my opinion cause material harm to the AONB. The proposed operations are limited to the gates and dwarf walls. Although the access is deemed to have a damaging effect on the conservation area, the proposal would not be substantial enough to have a detrimental impact on the AONB more broadly.
- 6.12 In light of the above, the application is recommended for refusal.

## **7. Recommendation:**

### **7.1 Refuse Planning Permission, for the following reason:**

- 1 The proposal, by virtue of the interruption of the established landscaping and fence, would be damaging and detrimental to the appearance, setting and character of the Birling Conservation Area and to the visual amenity of the locality. The proposals are therefore contrary to Planning Policy Statement 5 (Planning for the Historic Environment) and policies CP1 and CP24 of the

Tonbridge and Malling Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Managing Development and the Environment DPD 2010. The local planning authority does not consider that the proposed development brings forward any substantial benefit such as to override this harm.

Contact: Mark Fewster