

**East Malling &
Larkfield**
East Malling

14 May 2018

TM/18/01106/FL

Proposal: Proposed new entrance to No.165 Wateringbury Road
Location: Belvidere Oast 165 Wateringbury Road East Malling West
Malling Kent ME19 6JE
Go to: [Recommendation](#)

1. Description:

- 1.1 Determination of this application was deferred by APC3 on 25 April 2019 to allow the applicant a further opportunity to submit information in support of the proposed development. My previous report is appended in full for Members information, at Annex 1.
- 1.2 A Technical Note was subsequently prepared by Charles and Associates on behalf of the applicant and submitted in support of this application in August 2019. This is appended in full in Annex 2. The note seeks to describe the lack of visibility afforded by the current vehicle access serving this (and the neighbouring) site, provides a summary of the accidents recorded along this stretch of Wateringbury Road, close to the application site, and the forward visibility that would be afforded by the proposed access.

2. Consultees: (since 25 April 2019)

- 2.1 KCC (H&T): I note that speed surveys have not been undertaken. For the purposes of calculation therefore, without survey data, traffic speeds of 40mph, the speed limit, are assumed.
- 2.1.1 I disagree with paragraph 3.1.2 of the report, '*The proposed access location is positioned along a straight section of the Wateringbury Road*'. I consider that the proposed access is positioned immediately south of a kink in Wateringbury Road and Figure 2.6 – looking north, within the report demonstrates this. I also disagree with paragraph 2.1.10 of the report which is unclear and unsubstantiated.
- 2.1.2 My analysis of the current proposals are as follows: -
- 40mph = 17.88 meters per second; design visibility splay = 65m
 - Visibility proposed north from access = 25m, 38% of that required for 40mph.
Time taken to cover 25m at 40mph = 1.4 seconds
- 2.1.3 Stopping is broken down into reaction time and then deceleration from breaking until stationary. The standard reaction time used in the industry is 1.5 seconds. In other words, the figures suggest that a motorist controlling a southbound vehicle travelling at 40mph could still be travelling at 40mph after 25m when trying to stop.

- 2.1.4 I appreciate that the existing access is poor and from historic Google Earth images this appears to have been like this since at least 2003. However, on behalf of this authority I cannot condone a new access which has such a poor, substandard visibility splay.

3. Determining Issues:

- 3.1 The relevant adopted planning policies and all other material considerations are set out within my previous report and should be read in conjunction with the further assessment that follows.
- 3.2 It is accepted that the existing access which serves both the application site and the neighbouring property at 163 Watringbury Road currently provides a substandard level of visibility for vehicles leaving the site and pulling out on Watringbury Road. However, the proposed access, whilst providing more visibility for the *applicant's* property than the existing access, would still fail to provide an adequate degree of forward visibility for vehicles, particularly when looking to the right. In making their representations, KCC (H+T) seeks to explain this point by explaining that a vehicle travelling south along the Watringbury Road towards the application site at the speed limit of 40mph would still be travelling at that same speed as it passes the proposed access even if the driver could see a car emerging from the access at the earliest opportunity and applied his brakes as soon as possible. This is due to the limited visibility provided to the side of the proposed access (25 metres) and the accepted reaction time of a motorist being able to apply their brakes is 1.5 seconds i.e. a delay of 1.5 seconds occurs between a motorist seeing an obstruction and applying the brakes. In this small period of time, a vehicle travelling at 40mph would cover 25 metres. Due to these factors a vehicle leaving the proposed access would not be seen by vehicles travelling at the legal speed limit for the road until it was too late to stop (and therefore cause an accident).
- 3.3 It is acknowledged that the proposed access would provide a greater degree of visibility than the existing access to the site. However, it is still considered to be unacceptable by the local highway authority because of the inadequate degree of visibility it would provide for the speed of the road.
- 3.4 It is clear that the Technical Note provided in support of the scheme does not contain any information that allows for KCC (H+T) to remove their previous objection, and that certain elements contained within the report are disputed. In this respect, Members should be aware that the views of statutory consultees should as a matter of law be given 'great' or 'considerable' weight. A departure from those views requires "*cogent and compelling reasons*" (as set out by the High Court in *R(Hart DC) v Secretary of State for Communities and Local Government [2008] EWHC 1204 (Admin)*). There remain no such reasons in this case.
- 3.5 The technical note provided on behalf of the applicant considers that the provision of the new access for the applicant's property would reduce the risk of accidents

occurring as less movements would take place using the existing access. However, the same amount of vehicle movements would still take place as currently occur, only from two separate substandard accesses, rather than one. Given the unequivocal advice from the highway authority in response to the technical note submitted on behalf of the applicant, it is clear that the applicant has failed to provide further information to demonstrate that the access would be acceptable in terms of highway safety. This is not a criticism of the applicant or the writer of the technical note but rather because the particular circumstances of this case are such that the proposed access would be unacceptable due to sub-standard visibility splays.

- 3.6 Consequently, the further information submitted on behalf of the applicant has not been such that KCC (H+T) have removed their objection to the proposal, which remains contrary to adopted policy and the requirements of the NPPF. I therefore continue to recommend that planning permission be refused.

4. Recommendation:

- 4.1 **Refuse planning permission** for the following reason:

Reason:

1. The proposed development by virtue of the lack of suitable forward visibility splays for vehicles emerging from the proposed access, will cause unacceptable harm to highway safety and is, therefore, contrary to policy SQ 8 (2) of the Managing Development and the Environment - Development plan Document 2010 and paragraphs 108 and 109 of the National Planning Policy Framework 2019.

Contact: Matthew Broome