

Appeal Decision

Site visit made on 8 November 2016

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2016

Appeal Ref: APP/N1025/W/16/3155544

68A Duffield Road, Little Eaton, Derby, Derbyshire DE21 5DT

- 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 Nicholas Dolby against the decision of Erewash Borough Council.
 - The application Ref ERE/0316/0029, dated 4 March 2016, was refused by notice dated 7 June 2016.
 - The development proposed is a new dwelling house in the garden.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling house in the garden at 68A Duffield Road, Little Eaton, Derby, Derbyshire DE21 5DT in accordance with the terms of the application, Ref ERE/0316/0029, dated 4 March 2016 subject to the following 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: 1:1250 Site Location Plan, 1:500 Block Plan, Floor Plans 20/07/2015/01, Elevations – Sections 20/07/2015/02 and Cross Section – Front Elevation.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the two side windows serving the proposed first floor bathroom and bedroom 3 should be installed as obscure glazed and retained thereafter and no windows other than those expressly authorised by this permission shall be formed constructed on the side elevations unless planning permission has first been granted by the local planning authority.
 - 4) A two metre high fence shall remain in situ between the proposed dwelling and 68A Duffield Road.
 - 5) The dwelling house shall not be occupied until space has been laid out within the site in accordance with the application drawings for parking and manoeuvring residents' vehicles. Such space shall be laid out, surfaced and thereafter be kept available at all times for those purposes.
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Main Issue

2. The main issue is the effect of the proposal on highways safety, with particular reference to visibility.

Reasons

3. The appeal site comprises part of the private garden of 68A Duffield Road. It is served by a dropped kerb private driveway on Duffield Road which also provides access for Nos 68 and 70. The existing properties have on site vehicle parking and turning areas for cars.
4. Adjacent to the appeal site Duffield Road has a width of approximately 6.5 metres and is subject to a 30mph speed restriction. It is well lit by street lighting and there is a speed hump and associated white line road markings approximately 15 metres to the North West of the access to the site. There are other vehicular access points onto Duffield Road in the vicinity of the site, many of which appear to be sub-standard in terms of limited visibility.
5. At my site visit I observed that in the middle of the day on a weekday the road was relatively lightly trafficked with slow vehicle movements near to the site access. The nearby speed hump appeared to be particularly successful in slowing traffic speeds.
6. Standards for visibility in these circumstances are set out in Manual for Streets (MfS) and Manual for Streets 2 (MfS2). Guidance requires an access onto a highway subject to a 30mph speed restriction to provide visibility sightlines at a distance of 2.4 metres back from the carriageway edge (at a height of 1.05 metres) which extends 43 metres in each direction when measured along the nearside carriageway. The existing access is sub-standard the visibility over controlled land being only 5 metres to the north west and 5.5 metres to the South East.
7. However, given the traffic calming along Duffield Road and the straight nature of the road near to the appeal site, the Highway Authority accepts that a reduced set back distance of 2 metres can be applied in this case. Nonetheless, when applying this reduced standard the visibility for emerging drivers would be only 6.2 metres to the North West and 7.2 metres to the South East.
8. Nevertheless, based on the outcome of vehicle speed survey results undertaken as part of the planning application process, the Highway Authority accepts the reduced MfS recommended splay lengths of 33 metres to the North West and 36 metres to the South East. Even taking account of further allowances in MfS2 with respect to measuring the visibility splay from the nearside edge of the vehicle track rather than the nearside kerb line achievable visibility is significantly sub-standard.
9. Only when measuring the setback distance of 1.4 metres taken 1.0 metre out from the kerb line can the reduced agreed splays be achieved. However, the Highway Authority does not consider that such a reduction is acceptable as it would require vehicles to encroach into the highway by up to 1.0 metre in order to achieve the required levels of visibility.

10. Nonetheless, MfS2 does state that *"based on research...unless there is local evidence to the contrary, a reduction in visibility below the recommended levels will not necessarily be a problem"*.
11. Evidence before me indicates that there have been no accidents in the vicinity of the site in the last five years, indicating that the existing access serving three properties operates safely and successfully. I am also aware that the existing access arrangements have existed for many years.
12. At my site visit I used the access to enter and exit the appeal site in a car and carefully observed the conditions in the immediate vicinity of the proposed access. Although, due to the stone walls adjacent to the access onto Duffield Road, caution was required when slowly approaching the highway to manoeuvre onto the carriageway, visibility in both directions along the relatively straight section of road was of a standard where pedestrians, cyclists, cars and other vehicles could clearly be seen approaching the access. I observed this standard of visibility without any encroachment whatsoever onto the road carriageway or the adjacent footpath.
13. Consequently, although the geometry of the visibility splay is sub-standard, in practice I found the manoeuvres to be safe.
14. The proposed dwelling would be likely to generate, on average, eight vehicle trips per day which is an increase of 33% above existing usage. Although this is a relatively high increase in movements associated with an existing access which is technically considered to be sub-standard, I do not consider that one additional dwelling is likely to be harmful and that safe and suitable access to the site can be achieved.
15. I have taken account of the detailed technical cases made by parties and relevant guidance in MfS, MfS2 and the National Planning Policy Framework (the Framework). Based on my observations and findings I conclude that the proposed development would not result in severe harm and could be accommodated by the existing site access despite the technical shortfall in the recommended visibility splays. Therefore, I do not consider that the proposal would be harmful to highways safety, with particular reference to visibility. As such, it accords with the overall requirements of the Framework.

Other Matters

16. I am aware of other matters raised from interested parties that are not addressed above.
17. The proposed dwelling would be of a suitable design within its context. I find that its overall scale, massing, materiality and detailing are sympathetic to its immediate surroundings.
18. In order to protect the amenity of the occupants of adjacent residential properties I have attached conditions to mitigate potential harm to living conditions and privacy, in particular.

Conditions

19. The Council has suggested a list of conditions which I have considered, and where necessary amended, in line with national policy and guidance. I have imposed a condition specifying the relevant drawing as this provides certainty.

20. In order to protect the living conditions of neighbouring properties I have attached conditions requiring a two metre boundary fence and the installation of obscured glazing to windows in the side elevation of the proposed dwelling. I have specified that no new windows shall be formed unless granted by the local planning authority.
21. In the interests of highways safety I have also imposed a condition requiring space for parking and manoeuvring residents' vehicles.
22. Given the clarity in the planning application of materials to be used I do not find it necessary to attach a condition requiring compliance with such details which form part of the proposal.

Conclusion

23. For the above reasons and taking account of other matters raised I conclude that the appeal should be allowed.

Alastair Phillips

INSPECTOR