

Appeal Decision

Site visit made on 5 January 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/A5840/W/16/3159966

4 Nemus Apartments, 21-43 Bush Road, London SE8 5AP

- 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 Chinh Truong against the decision of the Council of the London Borough of Southwark.
 - The application Ref 16/AP/0779, dated 1 March 2016, was refused by notice dated 11 May 2016.
 - The development proposed is a dropped kerb in front of the driveway and outside of the flat.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Notwithstanding the appeal site address on the planning application form the appellant has confirmed that the appeal site address is 4 Nemus Apartments, 21-43 Bush Road, London SE8 5AP. The Council has referred to this address in its refusal notice.
3. At my request, the appellant provided additional clarification as part of the appeal in terms of the land that would be used for car parking purposes. The plans submitted at planning application stage state that the appellant owns all of the existing hard standing area/driveway in front of No 4 Nemus Apartments. Therefore, the additional plan provides clarification in respect of how this land would be used for car parking and on-site vehicle manoeuvring. I have taken this plan into account as part of the determination of the appeal.

Main Issue

4. The main issue is the effect of the proposal upon highway safety.

Reasons

Site and proposal

5. The appeal site comprises a ground floor apartment with an existing hard standing area which fronts Bush Road. Bush Road is a one way street which includes two lanes for vehicular traffic plus a bus lane.
 6. It is proposed to form a dropped kerb which would measure approximately 3.81 metres in width.
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Highway safety

7. There is a tree within the pavement which is close to the proposed dropped kerb and which would adversely affect vehicular sightlines when looking in a northerly direction. However, Bush Road is a one way street and therefore there would be no oncoming vehicles approaching the site from this direction. When leaving the site and looking in a southerly direction there is a highway sign within the visibility splay. However, the sign itself is elevated above the line of site for a person sat in a vehicle. Whilst the legs of the sign are within the visibility splay these are extremely narrow. Taking into account the width of the legs, I am satisfied that a person sat in a vehicle and leaving the site would be able to see on-coming vehicles (including a bicycle). Whilst there is another tree within the pavement (southerly direction) closer to the bend in Bush Road, this is some distance away and, given the average speed of vehicles, I do not consider that vehicular sightlines from the appeal site would be unacceptable.
8. Whilst use of the pavement as a dropped crossing would undoubtedly mean that users of the pavement had to be more alert, any parked vehicle would be easily seen. Therefore, use of the proposed dropped crossing would not come as a total surprise. The immediate boundary treatment to the front of the appeal property (and the neighbouring property) is low and includes railings. Consequently, I am satisfied that any driver leaving the site in forward gear would be able to adequately see users of the pavement (and vice versa) either between the railings or over the low walls. Taking these factors into account, coupled with the likely speed of vehicles leaving the appeal site, I do not consider that pedestrian visibility splays or sightlines would be unacceptable, or that significant harm would be caused to users of the pavement.
9. As part of my site visit, I was able to see that there was a steady flow of traffic using Bush Road. That said, there were breaks in the flow of traffic and traffic speeds were relatively low. In these respects, I have no doubt that it would be possible to leave the appeal site and enter the flow of traffic. However, without on-site turning facilities, I consider that reversing into or out of the appeal site would unacceptably interrupt the free flow of traffic. Given the relative proximity of a bend to the appeal site, such an interruption could result in vehicles having to break suddenly which could result in an accident.
10. At planning application stage, the appellant confirmed that they owned all of the existing hard standing area to the front of the appeal property and that they had never considered reversing into or out of the appeal site. However, the Council state that they have tested the capabilities of turning a vehicle on the hard standing (ie based on the additional plan submitted as part of the appeal) by using turning overlays on scaled plans. Whilst the Council has not provided me with copies of such overlays, I do agree that the car shown on the appellant's submitted plan does not appear to reflect a typical length of car.
11. As on-site turning is fundamental to whether or not the appeal should be allowed, I conclude that I have insufficient information before me to reach a properly informed view on this matter. That said, had I had sufficient information in respect of this issue, I do consider that it would have been possible, from an enforceability point of view, to have imposed a planning condition which specified where a single vehicle should be parked and requiring that the defined turning area remained unobstructed at all times.

12. I conclude that in the absence of a detailed plan (to scale) which clearly shows that a vehicle could easily be turned within the site, the proposal would have the potential to have a severe impact upon matters of highway and pedestrian safety. This is because reversing into or out of the site would not be acceptable from a highway or pedestrian safety point of view. Therefore, the proposal would not accord with the highway safety aims of Policy 5.2 of the Southwark Plan 2007; Policy SP2 of the Core Strategy 2011 and the National Planning Policy Framework.

Other Matters

13. The Council has commented that it has no records of planning permission being sought for the dropped kerb to the adjacent property. The existence of the dropped kerb has not influenced my overall conclusion on the main issue.
14. The proposed dropped kerb would be in close proximity to an existing highway tree. The works involved to form a dropped kerb would be relatively minor, and I can see no reason why in principle it would not be possible to undertake such works without harm being caused to the roots of such a tree. In any event, this is a matter that could be addressed by means of a planning condition.
15. I acknowledge that the Council state that there have been three accidents close to the appeal site in the last five years (including one accident outside of the appeal site), but I have not been provided with specific details about the causes of such accidents. Hence, I can only afford this information limited weight.
16. None of the other matters raised outweigh my conclusion on the main issue.

Conclusion

17. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR