

Appeal Decision

Site visit made on 14 March 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 7th April 2017

Appeal Ref: APP/C4235/W/16/3161881

2A Sandy Lane, Romiley, Stockport SK6 4NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Wayne Rigg against the decision of Stockport Metropolitan Borough Council.
 - The application Ref: DC061919, dated 11 May 2016, was refused by notice dated 14 June 2016.
 - The application sought planning permission for demolition of existing building and erection of 4 no. residential units, alterations to existing vehicular access, provision of hard and soft landscaping, and other associated works without complying with a condition attached to planning permission Ref: DC050494, dated 9 November 2012.
 - The condition in dispute is No. 10 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) no gate or other means of obstruction shall be erected across the vehicular access that will serve the approved development at any time.
 - The reason given for the condition is: In order to ensure that vehicles can enter and exit the site unhindered so that they are not required to stop on the highway and therefore be a threat to highway safety and / or affect the free-flow of traffic in terms of Policies SIE-1 'Quality Places', CS9 'Transport and Development' and T-3 'Safety and Capacity on the Highway Network' of the Stockport Core Strategy DPD.
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Decision

1. The appeal is dismissed.

Main Issue

2. The planning application was made pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended) to develop land without compliance with a condition subject to which a previous planning permission was granted. In this case the condition is one which removed the permitted development right to erect gates across the access to the site. The reason given for imposing this condition was to ensure that vehicles can enter and exit the site unhindered so that they are not required to stop on the highway and therefore be a threat to highway safety and/or affect the free-flow of traffic. The appellant is seeking to have this condition removed in order to allow the installation of an automated gate at the entrance to the development. The main issue in this appeal is, therefore, whether the condition is necessary in the interests of highway safety in the vicinity of the appeal site.
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Reasons

3. Sandy Lane is a classified road that forms part of the Council's strategic highways network. At the time of my site visit it was well used and traffic was free flowing. Due to the nature of the road, it is very likely that similar or greater amounts of traffic will be present at other times. The southern section of Sandy Lane, where the appeal site is located has traffic calming measures installed which comprise a mixture of build outs to narrow the carriageway in the vicinity of junctions, raised tables at junctions and road markings. A limited amount of on-street parking is available, although this is restricted by no waiting regulations in the form of yellow lines, chevron markings on the carriageways in connection with the build outs and the presence of a number of bus stop boxes marked out on the carriageway adjacent to bus stops. On street parking is further limited by the presence of a large number of accesses to other houses.
4. The appeal site is a large plot that has been redeveloped to provide two pairs of relatively large semi-detached houses and contains a roughly T-shaped roadway, shared by the four houses, that gives access to the car parking spaces provided at the front of each house. At the appeal site, as part of approved development, the footway has been built out into the main carriageway of Sandy Lane adjacent to the site access. The site boundary with Sandy Lane is demarcated by a stone wall approximately 1.4 metres high with slightly taller gate piers to each side of the access. It is proposed that the automated gate would be sited against the rear side of this boundary wall.
5. The provision of an access controlled gate at the access would undoubtedly prevent visitors and delivery vehicles from entering the site. The Council states that one of the reasons why a servicing and turning area was required to be provided within the site was that there are limited opportunities for on-street parking on Sandy Lane. The Council suggest that preventing access to this area would result in illegal parking on double yellow lines, keep clear markings or by the build outs. Photographic evidence provided by the appellant shows that this has occurred without there being gates present at the access.
6. There are no parking restrictions on the carriageway opposite the access into the appeal site. At the time of my site visit there were vehicles parked on the carriageway at this point which, in combination with the build out into the carriageway, narrowed its effective width and required drivers to partly use the opposite lane to pass. I also saw that the on-street parking nearby was heavily used and that in places vehicles were parked on hatched areas near build outs at junctions. I would agree with the Council's position that this would be exacerbated if access were to be restricted to the site. Due to the narrow width of the main carriageway in the vicinity of the appeal site, additional parked vehicles would result in drivers having to use part of the opposite side of the carriageway for longer to pass them, which would increase the potential for conflict with approaching traffic. This would give rise to conditions that would be prejudicial to road safety in the vicinity of the appeal site.
7. I also saw that vehicles parked in the hatched areas adjacent to the build outs obstruct visibility for drivers entering the main carriageway from the side roads. Due to the volume of traffic carried by Sandy Lane and its strategic role within the highway network, this would also be harmful to highway safety.

8. There is no evidence in respect of how the gates would be operated. The second reason for refusal is based on an assumption that this would be by a remote control device and that the driver of a vehicle using such a device would have to stop on the main carriageway to operate this. There is, however, no evidence that would support this assumption.
9. This notwithstanding, regardless of whether the gates were operated by a remote control device, by manually entering a code into a key pad or by some other means, there would inevitably be some delay whilst the driver of a vehicle waited for the gate to open sufficiently to enable them to enter the site from Sandy Lane.
10. Due to the build out into the carriageway at the access point, the gate would be set back from the carriageway edge by approximately 5.1 metres. This would allow most average sized cars to pull off the main carriageway and stop in front of the gate. I recognise that longer vehicles may project slightly into the main carriageway, however, this would be less frequent and as a result would not significantly obstruct vehicle movement on Sandy Lane.
11. The Council suggest that this would create a situation where the free flow of traffic on Sandy Lane is disrupted and would be prejudicial to highway safety. Due to the build out of the footway into the carriageway, vehicles would only have to wait on the main carriageway if there were already a vehicle present in the buildout waiting for the gate to open. As the access point only serves four dwellings, I do not consider that this would be a frequent occurrence.
12. Vehicles waiting on the highway to enter the site would undeniably restrict the free flow of traffic. Nevertheless, although Sandy Lane is a part of the Council's strategic highway network, it has also been subject to traffic calming measures with the express intention of reducing vehicle speeds. Periodic minor disruptions to the free flow of traffic on the road would also contribute to reducing vehicle speeds. Whilst the Council suggest that this would give rise to conditions that were prejudicial to highway safety, this point is not elaborated on and no evidence has been submitted setting out the potential harm that may arise in this respect.
13. I also note the Council's point that a vehicle waiting in the access would prevent pedestrian movements along the footway and that Policy CS9 of the Stockport Core Strategy 2011 (Core Strategy) seeks to prioritise the needs of pedestrians over those of private motorists. Whilst pedestrian passage along the footway would be obstructed by a waiting vehicle, such obstructions would be neither frequent, nor lengthy, and would not, in my view, significantly inconvenience users of the footway.
14. The third reason for refusal relates to the adequacy of the proposed pedestrian access to the site. I saw when I visited the site that the position of this would coincide with a lowered kerb and tactile paving to facilitate crossing of the access point. I also note that there are concerns in respect of the width of the pedestrian gate. These points, however, are a matter of detail which are capable of being addressed by a suitably worded condition, and on their own would not warrant refusing planning permission.
15. I saw that there were other properties on Sandy Lane which had gates to their driveways. However, these were on driveways which served a single property. I note the appellant's point that service vehicles can't access other properties

on Sandy Lane but these not four dwellings served by a shared driveway. At the time of my visit the majority of the gates at other properties were open. I also saw that on a substantial number of properties, it was evident that gates had been removed. Whilst I appreciate that this is just a snapshot of the situation, given the busy nature of the road, I consider it is likely that gates are left open or have been removed to facilitate access to driveways without obstructing the footway or carriageway.

16. The appellant suggests that Condition 10 was based on previous proposals for the site which would have provided a greater number of dwellings. I do not have the details of these schemes before me but, nonetheless, the Council in determining the application for four dwellings clearly still considered that the condition was necessary when permission was granted, and set out the reason for this on the decision notice.
17. I am also mindful of the appellant's point that the previous building on the site had gates, however, from the evidence submitted, these served a smaller number of dwellings and would have been in place prior to the alterations to the highway to provide traffic calming.
18. The proposal is supported by the other occupiers of the development and this focusses mainly on use of the access and turning area by parents dropping off or collecting children from the neighbouring school and access by other vehicles not necessarily visiting houses on the appeal site. Although the access has 'Give Way' markings and is marked with double yellow lines, the turning and manoeuvring area beyond is private land. Unauthorised access by other road users could be discouraged by means which did not physically restrict access to the site.
19. My attention has been drawn to the fact that there are manually operated gates at the entrance to Romiley Primary School, which is immediately adjacent to the appeal site, and it is stated that as a result of this, and inadequate parking and turning areas within the school grounds, service and delivery vehicles park on the highway outside. Whilst this may be the case, I do not consider that it is a reason that should be used to justify a further development that would exacerbate the situation.
20. It is suggested that when the site access was closed off for health and safety purposes there were no accidents or incidents on the highway. The circumstances of this are not elaborated upon and so I do not know whether the houses were occupied at that time. The access requirements for an occupied residential development are different from a construction site and, consequently, I do not consider that this would represent an analogous situation.
21. It has also been put to me that the installation of a gate would increase security for the residents of the four houses. Although some evidence of incidents of attempted break-ins has been provided, I do not have the full circumstances of these. The houses have been laid out to provide a good level of natural surveillance of the turning and manoeuvring area and so have been designed to reduce the risk of crime. Although a gate would discourage casual access, due to the relatively low overall height of the boundary wall to the front of the development, the increase in the security of the site would, in my view, be limited.

22. The Council's second reason for refusal is based on an assumption that the gates would be remote controlled, which is not borne out by the evidence. The third reason for refusal, in respect of pedestrian access to the site, is a matter of detail which could be addressed by a suitably worded condition. However, the installation of a gate at the entrance to the site would prevent access by visitors and delivery vehicles. This would necessitate such vehicles parking on the main carriageway at a point where on-street parking is limited and the carriageway is narrow. As I have set out above, the further narrowing of the carriageway by parked vehicles requires drivers to cross into the opposing lane to pass them. An increase in the number of vehicles parked on Sandy Lane would increase the potential for conflict with oncoming vehicles and be prejudicial to highway safety. In addition further vehicles parking on the hatched areas adjacent to the footway build outs would restrict forward visibility for drivers emerging onto Sandy Lane. These are important matters to which I give significant weight.
23. I have had regard to the other points that have been raised in favour of installing a gate at the appeal site but none of these, either singly or collectively, would outweigh the harm that would arise from additional parking on Sandy Lane.
24. I therefore find that the condition is necessary in the interests of highway safety. The removal of the condition would conflict with the relevant requirements of Policies SIE1, CS9, CS10, T01 and T-2 of the Core Strategy which seek to ensure that development provides a safe environment and transport network, and avoids inappropriate on-street parking that has a detrimental impact on highway safety.

Conclusion

25. For the above reasons, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR