
Appeal Decision

Site visit made on 5 June 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 20 June 2017

Appeal Ref: APP/M4320/W/17/3170385

185 Liverpool Road South, Maghull, Merseyside L31 8AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Martin Irving against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2016/00801, dated 12 April 2016, was approved on 31 August 2016 and planning permission was granted subject to conditions.
 - The development permitted is retention of use as chiropodist practice, physiotherapist practice and nail technician practice on ground floor with self-contained residential unit on first floor.
 - The conditions in dispute are Nos. 1 and 2 which state that:
*"1. a) A scheme of works for the partial closure and reinstatement of the existing vehicular/pedestrian access to Liverpool Road South including the reinstatement of the boundary wall so that it is consistent and in line with the existing dropped kerb shall be submitted to the LPA within 3 months of this decision
b) The scheme approved under a) above shall be maintained thereafter."*
"2. The three parking spaces as shown on the plan, which access the site via the uncontrolled crossing within the signal controlled junction of Sefton Lane and Liverpool Road South, shall be of the required dimensions of 2.4m x 4.8m and clearly marked out and clearly signed as staff parking only."
 - The reason given for condition Nos. 1 and 2 is:
"In the interests of highway safety and to accord with Policies CS3 and DQ1 in the Sefton Unitary Development Plan 2006 and Policy EQ3 of the Emerging Local Plan."
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Decision

1. The appeal is allowed and the planning permission Ref DC/2016/00801 for the retention of use as chiropodist practice, physiotherapist practice and nail technician practice on ground floor with self-contained residential unit on first floor at 185 Liverpool Road South, Maghull, Merseyside L31 8AA granted on 31 August 2016 by Sefton Metropolitan Borough Council, is varied, by deleting conditions No. 1 and 2 and substituting them for the conditions set out in the attached schedule.

Procedural Matter

2. A Local Plan for Sefton (LP) was adopted on 20 April 2017. All parties have had the opportunity to comment on the change in status of the document in terms of the relevance to their case. The Council confirmed that upon adoption, Policies EQ2 and EQ3 of the LP replaced Policies CS3 and DQ1 of the Sefton Unitary Development Plan (UDP). The UDP policies that have been
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replaced no longer form part of the development plan and I, therefore, give them no weight in determining this appeal.

Background and Main Issue

3. Planning permission was granted by the Council for the retention of chiropodist practice, physiotherapist practice and nail technician practice on ground floor with self-contained residential unit on first floor, subject to conditions. Amongst other things, the conditions include a scheme of works to the access, including reinstatement of a boundary wall in line with an existing dropped kerb, and the layout of 3 parking spaces in accordance with the approved plan for staff parking only. At the time of my visit, the boundary wall had not been reinstated in accordance with condition 1 and the car parking arrangement laid out was not in accordance with condition 2, which are the conditions in dispute.
4. The main issue is whether the disputed conditions are reasonable and necessary in the interest of highway and pedestrian safety, with particular regard to access and parking arrangements of the site.

Reasons

5. The appeal site is located at the corner of Liverpool Road South and Sefton Lane in a predominantly residential area. An area of hardstanding at the front and side of the building is served by an uncontrolled access with a dropped kerb within a junction otherwise controlled by 4 way intersection traffic signals and a signalled pedestrian crossing. Other than the uncontrolled vehicular access, there are a further two shorter sections of dropped kerb; one on Liverpool Road South opposite to a pedestrian refuge within the carriageway and one on Sefton Lane serving the controlled pedestrian crossing. Only limited sections of low boundary wall currently enclose the site on Liverpool Road South and Sefton Lane which does not align with the position of the dropped kerb access at present. A separate access located on Sefton Lane beyond the junction serves off street car parking spaces used by the self-contained residential flat which are not subject to the disputed conditions.
6. The Liverpool Road South and Sefton Lane junction is a through-route with significant traffic flows along both roads. There are double yellow parking restrictions along the frontage of the site and the carriageways within and surrounding the signal controlled junction which prevents on-street parking in the immediate vicinity. Overspill parking for the property and nearby commercial premises is accommodated by neighbouring residential streets which are not subject to parking restrictions. At the time of my visit, traffic was busy with short queues of traffic waiting at the signals along both Liverpool Road South and Sefton Lane with the footway and respective crossings in frequent use by pedestrians. Although my observations reflect only a brief snapshot of highway conditions, there is no evidence before me that it is not representative of the general use of the junction at most times of the day. Nevertheless, it is reasonable that traffic levels and the number of pedestrians would likely be higher in the early mornings and early evenings.
7. Based upon the evidence before me, the existing vehicular access to the parking areas at the front and side of the property is well established and has served the property for a number of years. That would include during periods when the boundary wall would have been in a position facing Liverpool Road South similar to that required by the disputed condition. However, the existing

length of the boundary wall facing Sefton Lane appears to have been a longer established arrangement in providing a turning area to access the car parking space at the side of the building. It is my understanding that the use of the parking areas during those periods was not subject to restrictions including when in use as a dental surgery, financial practice and chiropody clinic respectively. The appellant has indicated that there have been no recorded accidents involving the movement of vehicles onto or from the car park in the most recent three year period, to which the Council has not provided any contrary evidence.

8. During my visit, I observed that the sequencing of the traffic signals and pedestrian crossing includes a short delay which would allow time for vehicles to access the site and exit onto each road without impeding traffic flows or pedestrians using crossings. Based upon my observations, the safest manoeuvre via the uncontrolled access is for a vehicle to access and exit the site in forward gear via the dropped kerb in the time available between signals. When in forward gear there is suitable visibility in all directions to allow vehicular access and exit via the dropped kerb with the necessary level of care to avoid causing unnecessary obstruction of the junction or an unacceptable risk of accidents.
9. It is reasonable that the change of use arising from the development would intensify the activity and increase the number of visitors to the property. The increase in visitors would result in more frequent use of the existing uncontrolled access from the junction if the 3 parking spaces were to be unrestricted for staff and visitors. Due to the presence of 3 parking spaces and the limited turning area available within the site from each space, any additional use of the access would increase the frequency of the turning area being in use by vehicles accessing or exiting the individual spaces. During those manoeuvres, the access would be temporarily blocked, which could result in obstruction of the junction by other vehicles attempting to access the site with a resultant increase in the risk of accidents with vehicles travelling along Liverpool Road South and Sefton Lane. The unacceptable impact upon highway safety arising from such circumstances justifies the need for restrictions on the use of the car parking spaces to make the development acceptable.
10. When compared with the restricted use of all 3 spaces for staff parking, there is no substantiated evidence before me which would lead me to consider that more frequent conflicts would occur from vehicle movements associated with 2 spaces limited to staff use only and a single space to be restricted to disabled use only. In any case, such a restriction as proposed by the appellant would, to my mind, result in a less intensive use of the access than associated with the previous uses of the property when parking was not previously restricted. In such circumstances, the proposed variation of the condition to restrict the use of the car parking space to 2 staff spaces and 1 disabled parking space would not have a detrimental impact upon highway safety.
11. In the interest of pedestrian safety, despite a marginal reduction in turning space within the site, the requirements of condition 1 in terms of the reinstatement of the boundary wall are necessary to control the point of access from Liverpool Road South and discourage vehicles from accessing the site along the pedestrian footway and via the existing dropped kerb opposite to a pedestrian refuge. However, the position of an existing traffic signal on Sefton Lane discourages use of the pedestrian footway adjacent to the crossing when

accessing and exiting the space at the side of the building, whereas a longer boundary wall would prevent suitable turning space for vehicles within the site. Consequently, the reinstatement of a section of boundary wall along Sefton Lane is not required. In the interest of certainty it is, therefore, necessary to alter the wording of condition 1 as to the section of wall to be reinstated.

12. The reinstatement of the boundary wall on Liverpool Road South would preclude the use of the 2 spaces on the frontage of the property shown as perpendicular to the road on the submitted plans. Such a layout would not allow access from the dropped kerb with adequate space to turn within the site. At the time of my visit, an alternative car parking arrangement on the front of the appeal property had been laid out with 2 spaces parallel to Liverpool Road South and a single space at the side of the property. Such an arrangement with the reinstated boundary wall would provide turning space within the site which although reduced in size would enable vehicles parking in all 3 spaces to access and exit the site in forward gear and therefore, should discourage unsafe reversing manoeuvres onto the junction. Consequently, to enable a safe access and suitable parking area in accordance with condition 1, it will be necessary to replace the disputed condition 2 with a condition that secures details of the revised car parking layout and its future retention.
13. The Council have indicated that an alternative car parking layout has been provided as part of a separate discharge of conditions application, but those specific details are not before me. In any case, the precise wording of the existing condition 2 is required to be amended in terms of the restrictions on the use of the spaces, so submission of further details in that respect would be necessary.
14. Having regard to all of the above and paragraph 206 of the Framework and Planning Practice Guidance, I conclude that disputed condition 1 requiring an approved scheme of works to the access, including reinstatement of the boundary wall to align with the dropped kerb access, is necessary in the interest of highway and pedestrian safety. However, it is essential to replace it with revised wording to allow submission, approval and implementation of details in a reasonable time period after this decision specific to the section which adjoins Liverpool Road South only. Furthermore, given the restrictions imposed by condition 1, it is also necessary to vary condition 2 to secure a revised parking layout with cross reference to condition 8 which otherwise relates to plans compliance. I have found restrictions on car parking spaces are necessary in the interest of highway safety, but no harm would arise from the use of 2 spaces as staff parking and a single space as disabled parking. The wording of disputed condition 2 should, therefore, be varied accordingly.
15. The imposition of revised conditions as set out above would ensure that the development would not conflict with Policies EQ2 and EQ3 of the LP. Those policies accord with the Framework, with particular regard to paragraph 32 which seeks to ensure safe and suitable access to the site for all people and that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.
16. I have considered the other conditions attached to the permission but there is no evidence before me that leads me to conclude that it is necessary to vary any of those. My decision alters the existing planning permission and should be read in conjunction with it.

Conclusion

17. For the reasons given above, I conclude that the appeal should succeed and that the planning permission should be varied as set out in the formal decision.

Gareth Wildgoose

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Within 1 month of the date of this decision, a scheme of works for the partial closure and reinstatement of the existing vehicular/pedestrian access including the reinstatement of the boundary wall facing Liverpool Road South so that it is consistent and in line with the existing dropped kerb shall be submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented within 3 months of the date of this decision and shall be maintained as such thereafter.
- 2) Notwithstanding condition 8, within 1 month of the date of this decision, a revised site plan shall be submitted and approved in writing by the local planning authority. The revised site plan should include details of three parking spaces that access the site via the uncontrolled crossing within the signal controlled junction of Sefton Lane and Liverpool Road South. The parking spaces shall be not less than 2.4m x 4.8m, with two spaces marked out and clearly signed as staff parking only and a single space marked out and clearly signed as disabled parking only. The car parking spaces shall be laid out in accordance with the approved details within 3 months of the date of this decision and maintained as such thereafter.