
Appeal Decision

Site visit made on 9 July 2019

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2019

Appeal Ref: APP/B3410/W/19/3227174

19 and 20 Main Street, Stapenhill, Burton on Trent DE15 9AP

- 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 Michael Bullock against the decision of East Staffordshire Borough Council.
 - The application Ref P/2018/01512, dated 28 November 2018, was refused by notice dated 14 March 2019.
 - The development proposed is formation of a dropped kerb to 19 and 20 Main Street.
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Decision

1. The appeal is allowed insofar as it relates to 20 Main Street and planning permission is granted for formation of a dropped kerb at 20 Main Street , Stapenhill, Burton on Trent DE15 9AP, in accordance with the terms of the application Ref P/2018/01512, dated 28 November 2018, insofar as relevant to that part of the development hereby permitted only, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out within 2 years of the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Scale 1:1250; Sketch Plan, frontages of 19 and 20 Main Street, Stapenhill, Scale 1:50.
2. The appeal is dismissed insofar as it relates to the formation of a dropped kerb at 19 Main Street.

Procedural Matter

3. I have used the address and description given on the decision notice as it more accurately describes what is proposed.

Main Issue

4. The main issue is whether the development would accord with relevant local policies with regard to the safe and efficient operation of the highway.

Reasons

5. The appeal site is the paved forecourt to two terraced dwellings, 19 and 20 Main Street (Nos 19 and 20). The development is to provide a dropped kerb to each dwelling to allow off-street parking.

6. The plans before me suggest that the distance between the footway and the front elevations of the dwellings would be 4.35 metres for No 19 and 4.95 metres for No 20. With regard to No 20, the proposed bay would conform to the Parking Standards SPD¹ and the Council's requirements for access crossings. Moreover, the evidence before me indicates that neither the highways authority nor the Council had any objection to the provision of a dropped kerb and associated parking space for No 20 and there is nothing before me to lead me to conclude otherwise.
7. With regard to No 19, the depth of the parking bay would not comply with the Council's guidance. It may be the appellant has a vehicle that would fit within this space, but the permission would run with the land and that may change. In any case, when the highways authority visited the site, a parked vehicle was overhanging the footway. I conclude that the frontage depth is insufficient to allow off-street parking. Overhanging vehicles could obstruct the footway, leading to issues of pedestrian safety.
8. There is also a speed cushion beside No 19's frontage. This would make manoeuvring onto No 19's frontage slightly awkward, which reinforces my concern in relation to overhanging. Although the appellant has suggested that vehicles could park at an angle across No 19's frontage, to avoid overhanging, it is difficult to see how this could be achieved without excessive manoeuvring which would also involve obstruction of the footway whilst in play.
9. In the light of the above, I conclude that a dropped kerb at No 20 would conform with local policies with regard to highway safety. As a dropped kerb at No 20 would, in practical terms, be severable from a dropped kerb at No 19, I see no reason why the works cannot be split.
10. However, a dropped kerb at No 19 would fail to conform to Policy SP1 of the Local Plan or the SPD with regard to the safe and efficient operation of the highway. The Council has referred to the National Planning Policy Framework in its decision. This is broadly consistent with the policy referred to above.

Other matters

11. I appreciate that other councils may have different off-street parking standards but that weighs neither for nor against this appeal. I also accept that there may be legal remedies to address vehicles overhanging the footway but it seems to me that these would most likely be enacted following an incident. The site is close to a busy two-lane road in an urban area, where pedestrians and vulnerable users are likely to be using the footway on a regular basis. The likelihood and magnitude of an incident caused by the hazard of foreseeable obstruction of the footway are such that it would be inappropriate, in my view, to seek to address the issue after the fact.
12. The appellant argues that the footway width, at 2.15 metres is overly generous. However, this makes no difference to my reasoning as a parked vehicle would still extend beyond No 19's curtilage.
13. I also appreciate that speed cushions encourage vehicles to slow down. However, in my experience it also encourages them to deviate slightly from the centre of the running lane, and this could lead to vehicles travelling closer to the footway outside No 19.

¹ East Staffordshire Parking Standards Supplementary Planning Document October 2017

Conditions

14. The highways authority suggested that if allowed, a condition requiring the installation of a surface water drain between the forecourt of No 20 and the footway should be imposed. However, No 20's forecourt is currently paved with what appears to be impermeable material and it also slopes towards the road. It seems to me that surface water is already entering the highway drainage system from No 20's frontage. Allowing the appeal in respect of No 20 would make no difference in this regard. I see no reason for a surface water drain to be installed and conclude that it is not necessary to make the development acceptable in planning terms.
15. I have however imposed standard conditions regarding time scale to ensure the works are carried out in a timely manner, as well as a condition requiring compliance with the drawings, for the avoidance of doubt.

Conclusion

16. I conclude that a dropped kerb at No 20 would not be contrary to relevant local policies and in that regard the appeal should be allowed. However, a dropped kerb at No 19 would be contrary to relevant local policies and in this regard the appeal should be dismissed.

A Blicq

INSPECTOR