



Appeal Decision

Site visit made on 20 August 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2019

Appeal Ref: APP/P1133/D/19/3231418

33 Gestridge Road, Kingsteignton, Newton Abbot TQ12 3EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mrs Carole George against the decision of Teignbridge District Council.
 - The application Ref 19/00339/FUL, dated 18 February 2019, was refused by notice dated 1 May 2019.
 - The development proposed is described on the application form as the 'removal of road facing wall to create parking space for disabled access'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Notwithstanding the planning history to No 33, each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. The development plan includes policies of the Teignbridge Local Plan 2013-2033 (adopted 6 May 2014, the 'LP'). I have also had regard to various other material considerations including the National Planning Policy Framework ('NPPF'), the Planning Practice Guidance ('PPG'), and to Devon County Council's Highways in Residential and Commercial Estates Design Guide (approved in 1996, the 'Design Guide').
3. Personal circumstances are capable of being material. However planning relates chiefly to the public interest and planning permission runs with the land rather than the individual.¹ Therefore if planning harm were to result, personal circumstances would need to be compelling and robustly justified in order to support granting permission. In that context I am mindful of the duty placed upon me by section 149 of the Equality Act 2010 as amended.

Main issues

4. Against the context above, the main issues are the effects of the proposal (i) on local character and appearance, particularly to the setting of Grade II listed Nos 39 and 41 Gestridge Road (ii) to the safe and efficient operation of the surrounding highway network.

Planning context

¹ PPG Reference ID: 21a-015-20140306, reflected slightly brusquely in the Council's email of 1 May 2019.

5. I must have special regard to the desirability of preserving listed buildings or their setting.² Whilst other policies have been cited in the Council's decision notice and have a more general application, such as policy S2 criterion (a), that position is essentially reiterated in LP policy EN5 'Heritage Assets'. LP policy WE8 makes particular reference to boundary treatments, seeking to ensure that alterations to such complement that which already exists. The NPPF guides that great weight should be given to the conservation of designated heritage assets, with any harm requiring clear and convincing justification (balanced against any public benefits).³
6. LP policy S2, criterion (h) sets out that development should seek to ensure public safety, with policy S1 setting out that development should perform well against various criteria, including criterion (b) which is in relation to 'road safety and congestion'. The Design Guide recommends as to how such aims are intended to be applied. NPPF paragraph 108 bullet point (b) similarly sets out that planning should ensure 'safe and suitable access' to a site. NPPF paragraph 109 further explains that unacceptable impacts on highway safety should be avoided.

Reasons

Character and appearance

7. No 33 is a modest terraced property of some vintage. It occupies a plot of significantly greater depth than width. No 33 falls to the west of, and well set back from, Gestridge Road (part of the B3195). The property's front garden is bounded by a traditional rustic rubblestone wall. That wall abuts the highway directly, without intervening pavement. Similar walls are a characteristic feature of the wider area,⁴ including of the Kingsteignton Conservation Area (albeit that, in many instances, they have been altered or replaced at some point).
8. At present there is only pedestrian access to No 33 from Gestridge Road. That is by way of a small break in the wall, demarcated by what appeared to be historic ball clay bricks. I therefore do not accept the appellant's position that the wall is presently constructed of 'non traditional' material. Aside from other pedestrian accesses to neighbouring properties, that wall effectively runs continuously to Grade II Listed No 39 close by. The wall and No 39 are readily visible in conjunction with one another. That is notwithstanding some variation in the wall's construction, and that it has been patched over time. The wall curves away from the highway nearing No 39, a form reflected also around the boundary of No 31 in the opposite direction.
9. Whilst not itself Listed, or by virtue of defining the curtilage of a Listed Building, the wall nonetheless connects with what the list entry for No 39 describes as originally a cart-entrance. That element of No 39 appears a smaller part of the property, beneath which there is a cut-through serving Arch Cottages. The cut-through may potentially be used in connection with other properties; rights of use are difficult to discern.

² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

³ Paragraphs 193 to 196 in particular.

⁴ Including nearby at Clifford Street, Chudleigh Road, and bounding Grade II Listed St Michael's Church House.

10. Nos 39 and 41 appear to have been remodelled during the early nineteenth century; the former is a relatively tall and narrow three storey Italianate property. The latter is a more modest double-fronted dwelling of classical proportions and understated design. The list entry describes how they may at some point have been a single building, potentially a farmhouse. Such origins would be consistent with the evolution of Kingsteignton and its agrarian surroundings. In that context, notwithstanding some piecemeal alterations, the wall as it stands has some aesthetic value to the historic setting of Nos 39 and 41 and, more broadly, to the character of the surrounding area.
11. The proposal is to demolish part of the boundary wall to provide for a parking space and direct access from the highway. Piers would be reinstated either side of the boundary of the plot, with that nearest No 31 set back around a metre from the highway. The plans indicate they would be set at an angle to Gestridge Road rather than parallel to it, albeit that a parallel alignment could be also achieved (in theory). The proposal would entail the installation of an access ramp to the property, and it is the appellant's intention to undertake some landscaping and replanting in lieu of what would be lost. I acknowledge that the wall, as it stands, is in need of some repair.
12. Following my reasoning above, the removal of a substantial part of the wall would be inherently detrimental to local character and appearance and to the setting of Nos 39 and 41 Gestridge Road. Whilst the wall may have been altered over time, those alterations are not so fundamental to have effaced its historic significance or visual contribution. The wall is at present a pleasant feature, consistent with that of its surroundings, and attesting to the historic origins of this area. The wall has evidently been in place for a significant period of time, and there is nothing to indicate that it would be unfeasible to maintain in the future or a disproportionate burden.
13. The appellant also indicates that it may be her intention, in any event, to replace the wall shortly with a timber fence for ease of future maintenance. That may be a reference to permitted development rights in respect of gates, fences and walls etc., under Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO'), notwithstanding the limitations in A.1(b). Nevertheless the appeal is against refusal of planning permission as opposed to in respect of a certificate of lawfulness (section 192 of the Town and Country Planning Act 1990), and there is no substantive evidence before me as to whether permitted development rights in this instance remain intact.
14. Timber may be more low-maintenance in the future, albeit less durable in the long-term. However there would be some effort and cost to replace what already exists, and as set out above the wall has stood the test of time. As such it does not appear to me that the replacement of the wall would necessarily be an attractive prospect. Moreover permitted development rights under GPDO Schedule 2, Part 2, Class B in respect of means of access to a highway do not apply to a classified road (as is the case of Gestridge Road). It is therefore unlikely that the wall would be replaced other than were that to enable vehicular access.
15. I therefore conclude that the proposal would adversely affect local character and appearance and undermine the historic integrity to the setting of Grade II

Listed Nos 39 and 41 Gestridge Road. That is in conflict with the relevant provisions of LP policies S2, EN5 and WE8. However as only a portion of the wall would be affected, on account of its current state and separation from Nos 39 and 41, in my view the extent of harm arising within the terms of NPPF paragraphs 193 to 196 may fairly be described as less than substantial (and relatively limited within that categorisation). I turn to the other material considerations in favour of the proposal subsequently.

Highway network

16. The County Council's observations in respect of application Ref 19/00339/FUL describes Gestridge Road/ the B3195, as a 'Primary County Road'. That is a term used in paragraph 1.3.5 of the Design Guide, a component of the 'Major Road Network'. The Department for Transport's Guidance on Road Classification (January 2012, the 'DfT Guidance') does not contain the phrase 'Primary County Road', although 'Primary' may simply be a reflection of the strategic function of a B Road rather than formal terminology.
17. The Design Guide uses a different term. Section 3.11.3 explains that 'where a private drive provides access from a Residential Transition Road (or in other circumstances from existing County Roads), the ability to turn a vehicle within the curtilage must be provided (see Section 7.4)'.⁵ Residential Transition Roads are defined in the Design Guide as 'a link between the existing local distributor roads and access roads within the development', and set out in an illustrative layout. They appear to be geared towards the establishment of planned new estates, rather than reflecting the existing built form.
18. Residential Transition Roads are not a term used in the DfT Guidance, in Design Bulletin 32 (which originated in 1977, 'DB32') to which the Design Guide cross-refers, nor in Manual for Streets which superseded DB32 as Government guidance (published in 2007, 'MfS'). Nevertheless, ultimately the requirement that provision is made so as to enter and exit in forward gear, is guidance and therefore advisory.
19. Whilst there does not appear to be a comparable requirement for access/manoeuvring provision in DB32 or MfS, there is a clear implication in the latter. Section 7.5 and table 7.1 of which guide as to how stopping site distances ('SSD') may be calculated in relation to oncoming traffic from the perspective of a vehicle entering a highway in forward gear. SSD represents the distance necessary for vehicles to come safely to a stop, with recommended visibility splays established accordingly. Here Gestridge Road is subject to a 30 mph speed limit, such that MfS table 7.1 indicates that generates an SSD of 43 metres (adjusted for bonnet length). There are no indications of observed speeds in this location to justify divergence from that position either way.
20. Notwithstanding the discussion above regarding terminology, the B3195 represents a central route through Kingsteignton. Various services and facilities are located along its length, or to the south along Newton Road, in part the A383 (beyond a roundabout a short distance away also serving Fore Street). That is in comparison to the B3193, Longford Lane, and the A380 which,

⁵ The 'other circumstances' appear to be discretionary as defined in 7.4.3 of the Design Guide, i.e. 'a similar arrangement is also required where an access is formed onto an existing road with or without a footway, when directed by the Engineer'.

broadly, track around the periphery of the town. It is therefore likely to be a relatively intensively used element of the highway network on account of its strategic location and function.

21. I acknowledge that there are a number of off-street parking spaces in the area, which are insufficient in size or dimensions to allow for vehicles to enter and exit from Gestridge Road in forward gear. I saw that appeared to be so of parking associated with Nos 26, 28, 34 and 36a along the western side of this juncture of the B3195. Along the eastern side of Gestridge Road in this broad location there are also spaces to the front of Nos 29a and 43, the cut-through by No 39 referenced above, and similar cut throughs reflecting the long and narrow arrangement of plots to the side of Nos 27 and 31. The appellant also explains 'I would also state that there have been no accidents on Gestridge Road relating to vehicles manoeuvring in or out of driveways'.
22. However there is no substantive information before me as to the planning circumstances that applied to the creation of other vehicular accesses nearby. It appears likely to me that some originated historically, or preceding current recommended levels of visibility. In any event the existence of other constrained parking provision does not inherently justify allowing unacceptable development in the present, albeit I accept that some drivers with familiarity of the area may proceed cautiously by consequence.
23. Moreover between Nos 27 and 47 along the western side of Gestridge Road there is, atypically, no pavement. That is contrast to the eastern side in this location. As such direct comparisons cannot be drawn from driveways associated with properties to the east of Gestridge road, as there is inherently more space between emerging vehicles and the path of oncoming vehicles than would be the case of the proposal before me (whereby a vehicle would transition directly from the highway to the plot of No 33).
24. At the time of my site visit there was no centre line demarcated between roughly Nos 27 and 47, beyond which that recommenced in both directions, where there are also typically pavements present on both sides of the highway for some distance. There is some suggestion that various properties have potentially been granted with direct access off the B3182 in Exeter (a road number with a complex history). However there is no substantive evidence before me of the planning considerations in those respects, or of their comparability with the circumstances here.
25. There is no robust evidence before me in support of the appellant's statement that there have been no accidents related to vehicles entering or exiting from driveways in this location, nor over what duration that statement is averred to be true. And such records could not have taken account of vehicular movements associated with the development proposed. In this case the boundary of the plot is the highway, and there is no indication that acceptable SSD could be achieved when exiting the plot of No 33 in forward gear.⁶

⁶ Notwithstanding that the offset of the pier nearest No 31 would allow for greater visibility from nearside oncoming traffic than that approaching from the north.

26. It is furthermore highly unlikely that a visibility splay could be achieved that would come close to 43m in either direction.⁷ MfS paragraph 7.6.3 indicates that standard driver height for cars is around 1.05 metres. The plans show the wall piers as proposed to be reduced below that. However they also show that the existing piers, and therefore the front boundary wall, exceed that height. Whether on the basis of a 2 or 2.4 metre set-back from the carriageway, visibility in either direction when exiting the site is likely to be very limited. Moreover achieving a visibility splay from such a set-back would, it seemed, be reliant upon land not within the appellant's control (including the boundary wall or established planting related to neighbouring properties).
27. Whilst the appellant explains that she would not reverse into the highway, stopping on the carriageway and reversing into the parking space proposed would impede traffic proceeding northwards (and potentially southwards depending on the size of vehicle and turning arc taken). That is in the context of a stretch of the B3195 which, as reasoned above, is likely an intensively used element of the highway network. Whilst that latter point is not determinative, it nevertheless does not offer a practical workaround.
28. For the above reasons I therefore conclude that the proposal would have an adverse effect on the safe and efficient operation of the surrounding highway network in conflict with the relevant provisions of LP policies S1, S2, NPPF paragraph 108, and the approach advocated in the Design Guide.

Other matters

29. I have taken careful account of the need arising from the health and mobility of the appellant. I do not treat the benefits of the proposal in terms of improved convenience and accessibility lightly.⁸ I acknowledge that parking immediately alongside the plot of No 33 for a maximum period of three hours is a sub-optimal arrangement. However there is no substantive evidence before me as to current parking arrangements or their impracticality, for example, whether there is a private easement in respect of use of the cut-throughs mentioned above. I also understand that disabled parking permits may be sought from the Council, which would enable the appellant to park in designated disabled pays at the Gestridge Road car park next to No 27 close by. Referencing paragraph 3 above, I am therefore not in a position to determine that the proposal would be the only practical solution or essential for the appellant's continued occupation of the property. Consequently no other matters are sufficient to outweigh the harm that would result.

Conclusion

30. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and any other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow

INSPECTOR

⁷ There is no robust evidence before me supporting the appellant's assertion that visibility either way is 'over 100 metres', for example the parameters that have gone into such a calculation.

⁸ Notwithstanding that they principally relate to individual, as opposed to public, benefits.