



Appeal Decision

Site visit made on 27 August 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2019

Appeal Ref: APP/H5960/W/19/3230316
25 West Hill Road, London, SW18 1LL

- 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 Jorge Dainton (Nomad Developments Ltd) against the decision of the Council of the London Borough of Wandsworth.
 - The application Ref 2018/5609, dated 23 November 2018, was refused by notice dated 21 January 2019.
 - The application sought planning permission for demolition of existing house and erection of 4 x three-storey (including basement) 5-bedroom houses (2 x detached and 2 x semi-detached) with associated landscaping and provision of 4 off-street parking spaces (Amendments to planning refusal 2016/2724) without complying with a condition attached to planning permission Ref 2017/0466, dated 18 May 2017.
 - The condition in dispute is No 2 which states that: The development shall be carried out in accordance with the approved drawings and specifications: 250D; 251D; 252C; and 152, unless approved otherwise in writing by the local planning authority.
 - The reason given for the condition is: To ensure a satisfactory standard of development, and to allow the local planning authority to review any potential changes to the scheme.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The appeal proposal seeks to vary the approved plans to allow the formation of an additional vehicular access in approximately the same position as that currently in use as a construction access to the site, along with modifications to the parking layout to enable 4 off-street parking spaces to be spread across the front garden of the site instead of being sited in front of houses 3 and 4 as approved.
3. The access is in the same location as that previously refused under planning application Ref 2016/2724 and subsequently dismissed on appeal (APP/H5960/W/16/3163991). In dismissing that appeal the Inspector found the proposed access would be harmful to driver safety and would cause a road safety hazard contrary to Policy DMT 1 of the Wandsworth Local Plan Development Management Policies Document Adopted March 2016 (DMPD).
4. In refusing the application subject of this appeal the Council found harm to both vehicular and pedestrian safety. However, in their appeal statement the Council confirm that they accept that the concerns about pedestrian safety

could be suitably dealt with by means of conditions. Given that this was the conclusion reached by the previous Inspector, I have no reason to disagree and am content to determine the appeal on this basis.

5. Therefore, on the basis of the above and the submitted evidence I consider the main issue in this case to be the effect of the proposed development on highway safety with particular regard to vehicular safety.

Reasons

6. The primary difference between the current proposal and that previously refused and dismissed on appeal is that the appellant has submitted, as part of the appeal, a scaled drawing illustrating visibility splays at the proposed access of 2.4m x 25m. The appellant has referred to Manual for Streets (MfS) 1 and contends that the local highway authority and previous Inspector could not have come to the conclusion that there is poor visibility at the proposed access point 'as the only way this can be assessed is by examining a properly scaled drawing.'
7. The submitted drawing shows the Y distance measured to the centre of the highway whereas the Council point out, MfS1 at paragraph 7.7.3 states that this distance is measured along the nearside kerb line. The Council state that taken from the kerb line the Y distance would be around 16m to the right and around 14m to the left. Both distances being considerably less than the 25m set out in MfS1 and 2.
8. There has been no material change in circumstances since the previous Inspector's decision and based on my own site observations, drivers emerging from the access would have very limited visibility of vehicles approaching from both directions, particularly those approaching from the west, similarly, drivers of vehicles approaching from the west would have limited visibility of vehicles emerging onto the road. Consequently, because of the poor visibility for drivers emerging from and those approaching the access from the west, its use would be harmful to highway safety. Whilst MfS2 recognises that parking in visibility splays in built up areas is common and does not appear to create significant problems in practice, the restricted visibility in this case is as a result of the proposed access being located close to a bend in the road.
9. The speed limit along this section of road is 20mph and there are traffic calming measures along the road. The appellant states that traffic flows on West Hill Road are modest even at peak times and that there has been no record of personal injury collisions having been recorded in the last five-year period for which up to date information is available. However, in the absence of substantive evidence to support the appellant's assertions, I give them little weight in my assessment. Furthermore, I have had regard to third party representations from local residents, who state that at peak times the road is busy due to traffic associated with nearby schools and a mosque and that cars and lorries frequently flout the speed and weight restrictions. Third parties also state that they have witnessed collisions and near misses on the bend in recent years.
10. Overall, for the reasons given above I conclude that the proposal would result in unacceptable harm to driver safety contrary to Policy DMT 1 of the DMPD which requires that safe and suitable access to the site can be achieved for all users and that where developments require a new crossover it will need to be

demonstrated that they would not cause a road safety hazard. It would also conflict with the National Planning Policy Framework which requires that safe and suitable access to the site can be achieved for all users.

Other Matters

11. There is no substantive evidence to demonstrate that the approved access and parking arrangements would pose a risk to vehicular or pedestrian safety, or that they would result in unacceptable living conditions for the future occupiers of houses 3 and 4 as a result of loss of privacy and inconvenience to future occupiers of houses 1 and 2 due to lack of surveillance. Further, whilst the Council have approved a temporary construction access, there is no substantive evidence to demonstrate that the parking and manoeuvring of cars in close proximity to the protected tree would pose an unacceptable risk to its long-term health and viability. As such these are matters of limited weight.
12. That existing residents reverse out into the road does not justify the further harm to highway safety that would result from the appeal proposal.
13. That the proposed parking space dimensions comply with guidance and the proposal would not impact on on-street parking provision and, that delivery vehicles would have to park on the road, are not matters which affect my findings on the main issue.
14. The misgivings expressed by the appellant about the way the Council dealt with this application are separate from the planning merits of the proposed development and have no bearing on the outcome of this appeal.

Conclusion

15. For the reasons given above and having regard to all matters raised, the appeal is dismissed.

Felicity Thompson

INSPECTOR