The Planning Inspectorate

Appeal Decision

Site visit made on 15 October 2019

by Roy Curnow MA BSC(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th November 2019

Appeal Ref: APP/Y1138/W/19/3228742
58 Higher Street, Cullompton EX15 1AJ

- 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 G Cowley against the decision of Mid Devon District Council.
- The application Ref 18/01675/HOUSE, dated 12 October 2018, was approved on 1 March 2019 and planning permission was granted subject to conditions.
- The development permitted is erection of rear extension, retention of store after demolition of outbuildings and the reinstatement of boundary to highway, with a pedestrian access only.
- The condition in dispute is No 3 which states that: The existing gate leading on to Higher St (Highway) is to be permanently restricted to provide a maximum opening of 1.1m as indicated on the approved plan 7735-04 revB date stamped 19 Feb 2019; this gate is to provide pedestrian access only. No access/egress to/from Higher St (Highway) for motorised vehicular traffic and/or trailers into the land is to be provided other than in accordance with condition 4 below; this is to be so retained.
- The reason given for the condition is: In the interest of highway safety in conformity with DM2 of the Mid Devon Local Plan Part 3 (Development Management Policies).

Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development was changed during the processing of the planning application. The description of development I have used is that from the Council's decision notice, this is also the description used by the appellant on the appeal form.

Application for Costs

3. An application for costs was made by Gary Cowley against Mid Devon District Council. This application will be the subject of a separate Decision.

Background and Main Issues

4. Planning permission has been granted for various building operations at the site. Amongst the conditions attached to this permission, number 3 restricts a gate onto Higher Street to a maximum opening distance of 1.1m. The appellant seeks permission to open this gate further to allow vehicles to enter the site. The main issue is, therefore, the effect that removing the condition would have on highway safety.

Reasons

5. 58 Higher Street is a substantial dwelling that lies at the end of a short terrace. It presents one face to Higher Street and another to a lane that runs at right angles to it. There is a courtyard and outbuildings on the north side of the dwelling, with a large garden running northwards from this. The proposed rear extension lies between the courtyard and garden and the store that it is proposed to retain lies on the opposite side of the courtyard from the house.

6. The courtyard fronts onto Higher Street, which is the B3181, from which it was separated at the time of my visit by a sliding timber gate. The evidence shows that this access onto the highway was created relatively recently, following the partial removal of a boundary wall. The gate opens far enough to allow vehicles to enter the courtyard, and a car was parked there when I visited the site. Initially, the application sought permission for the parking of two vehicles on the courtyard. This was amended during the processing of the application and the approved drawings show that this gate would be retained but its opening onto Higher Street would be restricted to pedestrian width, thus precluding vehicles from entering the property.

7. Higher Street, here, is a busy road at the edge of the town centre that is subject to a 30mph speed limit. From what I saw, traffic was moving quite quickly along the road, albeit I would estimate that it was within the speed limit. Although the carriageway narrows outside the site and there are traffic lights in the direction of the town centre, I did not see traffic noticeably slowing down as it passed by the site.

8. The footway that runs along Higher Street in front of No 58 is narrow. There are double yellow lines along both sides of the road adjacent to the appeal property.

9. As Higher Street is classified, the Council states that design guidance requires vehicles to be able to turn within the site to allow access and egress in forward gear. I have not been supplied with copies of this guidance, but as it has not been challenged, I accept the assertion. In any event, given what I saw of the road, I would consider this to be a necessity. I have, however, been given a copy of Policy DM2 of the Council's Local Plan Part 3 Development Management Policies, October 2013 (DMP). Amongst its terms is the requirement for development proposals to demonstrate that they are safe and accessible.

10. Due to the limited depth and width of the courtyard, it is not possible to provide a turning area. Therefore, its use for the parking of vehicles would result in reversing manoeuvres either into or out of the site on the B3181. Either manoeuvre would be detrimental to highway safety, but this would especially be the case were vehicles to reverse out. The vehicle that I saw on the site had reversed in, and I accept that this is likely to be the case with most if not all vehicles accessing the site. However, given the reduced width of the carriageway here, it is likely that vehicles reversing into the site would cross the centre line and this would also result in further danger to highway users.

11. Furthermore, the visibility available to drivers of vehicles leaving the property is very limited, restricted to the right by the front of No 58 and, to the left, by the gate and boundary wall. It is far below the guidance figure of 43m in either direction from a point 2.4m back from the edge of the carriageway set out in

Manual for Streets. Given the limited width of the footway, a significant portion of an average sized car leaving in forward gear would be on the carriageway before its drivers would be able to see beyond these restrictions.

12. Although the visibility available to drivers on the road approaching the site is good, such movements would be unexpected and, given the amount of traffic I saw and its speed, this would cause danger to users of the B3181. Even were the access to be used intermittently, given the accessibility of the town's facilities from the site, this harm would still result.

13. Although I have no definitive evidence of when it would come into use, I am told that the Cullompton Relief Road is due to be complete by 2021. This could result in a reduction in the volume of traffic passing the site and the de-classification of the B3181. This might result in different turning and visibility requirements for accesses onto Higher Street. However, I have to assess the appeal on the basis of the current situation, rather than what might happen in future.

14. There are a number of historic accesses onto Higher Street near the site some of which have limited visibility. In this regard, my attention was particularly drawn to an access serving a funeral directors' premises opposite the site. Whilst this had sub-standard visibility on one side, it appeared from the road that there was an area to its rear where vehicles could turn. This would provide the opportunity for manoeuvres onto and from the B3181 associated with the business to be made in forward gear. It seemed that this and the other accesses nearby, including that just south of the funeral directors' premises, have been in-situ for a considerable period. Even if this is not the case, their presence cannot justify the provision of a further sub-standard and dangerous access.

15. There is no conflict between the disputed condition and conditions 4 and 5 of the Council's decision. Condition 4 requires the provision of a Construction Management Plan before further works are carried out on the proposed development. This would allow the access onto Higher Street to be used for vehicular traffic during the construction phase, subject to measures to mitigate the adverse effects of doing so to be put in place. Condition 5 is linked to this, as it provides a timing framework within which the building operations on the site, and thus the use of the access onto the B3181, would be permitted. This is quite different from allowing its use on an unfettered, permanent basis.

16. I am unaware of the details relating to the vehicle crossing licence that was issued by the local highway authority. However, the removal of the condition would considerably intensify the use of the access, resulting in an unacceptable level of harm to highway safety. In any event, the decision to attach the disputed condition to the permission was made by the Council not the highway authority.

Other Matters

17. The Council has no objection in principle to the proposed extension or the retention of the store and I find no reason to reach a different conclusion on these matters.

18. The Council's decision does not refer to harm to the Cullompton Conservation Area (CCA), within which the site lies. Notwithstanding this, section 72 of the

Planning and Listed Buildings Act 1990, Act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. The evidence before me shows that the courtyard was enclosed by a wall. Although the gate has a different appearance and is slightly lower than the wall was, portions of which are to be retained either side of the gate, the proposal maintains the enclosed manner of the site that is important in the street scene. As such, the character and appearance of the CCA would be preserved in accordance with s.72 and the removal of the condition would have no material effect on this finding.

19. I accept that there would be no ill-effects to neighbours' living conditions and the designs of the proposals are acceptable. I saw that, notwithstanding the parking area on the carriageway close to the site, parking in the area is limited. However, the benefits arising from a reduction in demand for these on-highway spaces and removing a car from the road as a result of the development would be limited. Given the Council's stance in this appeal, I do not find that discussing the Cullompton Relief Road at the application stage would have led to a different outcome. None of the above, taken individually or cumulatively, outweigh the harm to highway safety that I have identified.

Conclusion

20. For the reasons given above, and having taken all other matters into account, I find that the condition is necessary for reasons of highway safety in accordance with DMP Policy DM2. Therefore, the appeal is dismissed.

Roy Curnow

INSPECTOR