



Appeal Decision

Site visit made on 8 September 2020

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 23rd September 2020

Appeal Ref: APP/C1760/W/20/3251213

Foxleas House, Winton Hill, Stockbridge SO20 6HL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Charles Miller against the decision of Test Valley Borough Council.
 - The application Ref 19/01884/VARN, dated 30 July 2019, was refused by notice dated 20 November 2019.
 - The application sought planning permission for retention of four bedroom house with double integral garage together with associated works without complying with a condition attached to planning permission Ref TVN.07406/4, dated 15 November 2000.
 - The condition in dispute is No 2 which states that: The dwelling shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles in accordance with the approved plan and this space shall thereafter be reserved for vehicle parking and manoeuvring purposes at all times.
 - The reason given for the condition is: In the interests of highway safety.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. In his grounds of appeal, the appellant asserts that the condition the subject of this appeal has been continuously breached for over 10 years and thus the condition could not be enforced. However, I am not aware of any certificate of lawful development or use under Section 191 of the Town and Country Planning Act 1990 (as amended) to confirm this and a Section 78 appeal of this type is not the mechanism to determine this situation. Consequently, I will consider this appeal on the planning merits alone.

Main Issue

3. On the application form the then applicant requested that the condition be amended to "There shall be no occupation of the dwelling unless space is available in front of the garage for parking of cars at any time". This proposed condition would permit the garage area to be used for other purposes other than the parking of cars.
4. The main issue is whether the existing condition is necessary and reasonable in terms of highway safety.

Reasons

5. Foxleas House lies on the north side of Winton Hill, the B3049. This is a single carriageway road, which as its name suggests, rises steeply from west to east. Winton Hill has solid single white lines along each edge, except at entrances. The footway, or pavement in common parlance, in front of the property is narrow, and would not allow two pedestrians, including those using wheelchairs or pushchairs, to easily pass. Vehicles therefore should not overhang the footway since this would restrict movement on that footway and is likely to result in more pedestrians being required to move on to the carriageway. It does not appear to be in dispute that parking on the highway, including the footway, would be harmful to highway safety.
6. The property is 'L' shaped, with the garage located across the bottom of the 'L' with a hardstanding area in front. It is not set square to the road so that the eastern side of the main dwelling is closer to the highway than the western. I have been provided with the originally approved plan and this shows a "double garage" with a single 'up-and-over' door; a door of this type remains in place. The appellant suggests that the garage is not large enough for more than a single car to park, but notwithstanding that, the hardstanding area in front of the garage is wide enough for two cars to park side by side perpendicular to the highway.
7. Whether the hardstanding area was originally designed to form part of the parking arrangements or not is a moot point, as the area in front would represent the manoeuvring space to allow access to the in-garage parking, and this, under the existing condition, should be reserved at least for manoeuvring purposes at all times. However, even if used for space manoeuvring to the in-garage parking, the hardstanding area also allows for parking in a 'tandem' arrangement with that in the garage and it would be unrealistic to think otherwise. Consequently, I consider that both the garage and hardstanding area should be considered as being designed for parking.
8. There has been some discussion as to what the parking standard for a property of this size should be, but this, to my mind, is academic. Any reduction in the number of parking spaces on site which would lead to parking on the footway or carriageway would be prejudicial to highway safety. Even taking the appellant's case that the garage could only be used by a single vehicle, the approved layout provides for three spaces; one in the garage and two, side by side, on the hardstanding.
9. The drawing showing the proposed parking arrangement has two parking spaces perpendicular with the carriageway immediately in front of the marked garage, and a third space parallel with the carriageway between those spaces and the carriageway. There is no dispute that the two perpendicular spaces can be provided, the issue relates to the third, and whether there is physical space for a vehicle to manoeuvre and park.
10. The boundary with the adjoining property to the west, Manor Cottage, is marked with a low brick wall which extends to the back edge of the pavement. Similarly, in front of Foxleas House is a low brick wall. While there are demountable bollards that could be required to be removed to make access easier, given the nature of Winton Hill, I consider that the constrained area to front and rear would effectively make access to the third space impractical and thus it could not be provided.

11. The approved drawing shows the dimensions of the dwelling. However, this shows a “level pathway”, which I take to be the footway, parallel with the dwelling and with the built form of the dwelling immediately adjacent to the footway; this is not the case. I therefore do not have an accurate dimension from the garage to the edge of the pavement. From my observations at the site visit, even if a vehicle could be manoeuvred into the space as shown, anyone getting in or out of the vehicle on the highway side would inevitably open any door over the footway. This would, of itself, be harmful to highway safety and would be unacceptable.
12. Overall, to amend the existing condition in the way proposed would result in less parking spaces being available. The existing condition is therefore necessary and reasonable in terms of highway safety. Consequently, the proposal to vary it in the way proposed would be contrary to Policies T1 and T2 of the Test Valley Borough Revised Local Plan 2016 which require development to be designed to minimise its impact on the highway and parking to be appropriately located. It would also be contrary to paragraph 109 of the National Planning Policy Framework which indicates that development should be refused where there would be an unacceptable impact on highway safety.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR