



Appeal Decision

Site visit made on 1 September 2020

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/U4610/D/20/3251557 558 Beake Avenue, Coventry CV6 2JA

- 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 Kuldip Singh against the decision of Coventry City Council.
 - The application Ref HH/2019/2911, dated 19 November 2019, was refused by notice dated 31 March 2020.
 - The development proposed is described as: 'Planning permission is sought for the installation of a footway crossing for vehicular access including a dropped kerb and removal of 4 bollards for the benefit a severely disabled child who occupies 558 Beake Avenue, Coventry, CV6 2JA. The child concerned suffers from cerebral palsy, is blind, epileptic, confined to a wheelchair and suffers from learning difficulties. The applicant and spouse are primary carers of the child concerned and presently have no viable means of access to their home other than parking some 150 metres away.'
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on highway safety.

Reasons

3. The appeal property is located along part of Beake Avenue which lies between a traffic-light controlled junction, incorporating a pedestrian crossing and a bus stop. This location is also in close proximity of a junior school, church and local shops. Therefore, pedestrian and vehicular traffic in this location is particularly high.
4. In particular, the Council has highlighted past issues regarding vehicles parking on the footway and crossing it to access frontage parking areas, along this particular section of Beake Avenue. This led to the Council installing timber bollards along a section of Beake Avenue, including in front of the appeal property, to prevent vehicular access and parking in the interests of highway safety. Parking directly in front of the appeal property is also prohibited by a Road Traffic Order. Despite this, there is some on-street parking available further south from the appeal site.
5. The frontage to the appeal property comprises a hardstanding which also incorporates a ramp for wheelchair access. The appellant is seeking to provide a footway crossing to this area which would include the removal of 4 timber

bollards. This is to facilitate vehicular access and parking directly in front of the appeal property.

6. The proposal would mainly be for the benefit of the appellant's disabled child who also occupies the appeal property. The appellant and his partner are the principal carers for their child. In particular, the appellant has highlighted that the lack of frontage parking to the appeal property results in him and his partner parking along the road, away from their property and then having to push their child's wheelchair along a wide pavement, with this situation being made dangerous due to other parked vehicles and traffic along the road.
7. The appellant has also provided medical evidence¹. In summary, this confirms that his child has severe disabilities, is wheelchair bound and is totally reliant on care provided by him and his partner. Furthermore, that the provision of a dropped kerb and the ability to park a mobility vehicle directly outside the home would have a positive impact on the appellant's family and in particular the health and well-being of their disabled child.
8. However, and despite the appellant's assertion, on the available evidence and based on my observations there would appear to be insufficient space within the frontage of the appeal property to enable a vehicle to enter and leave in a forward gear. Consequently, the proposed arrangement would result in vehicles having to undertake reversing manoeuvres on to or off the pavement and highway, in an area heavily used by pedestrians including vulnerable users such as children travelling to and from school. Furthermore, vehicles reversing in this location near to a junction and on the approach to a bus stop would also be an added distraction and hazard to vehicles travelling along this part of the highway. Equally, this arrangement would compromise the safety of vehicles using the footway crossing in association with the host property.
9. For the above reasons, the proposal would significantly compromise highway safety. This would be contrary to Policies AC1, AC2 and AC4 of the Coventry Local Plan 2016, which together amongst other things seek to ensure that development proposals do not have a negative impact on highway safety. Accordingly, I also find conflict with the National Planning Policy Framework, which along with other matters seeks developments which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Other matters

10. The appellant has referred to other frontages in the area of a similar size to that at the appeal property being used for vehicle parking. However, these are not in a similar location to the appeal site. Whilst the nearby church has a vehicular access off Beake Avenue, this has sufficient space within its grounds to enable vehicles to enter and leave in a forward gear. Therefore, these examples do not alter my findings on the proposal. In any event, all appeals are judged on their own individual merits.
11. Although the appellant asserts that the existing arrangement for unloading and loading his child's wheelchair is a highway hazard, there is limited evidence of this. In any event, this does not justify the approval of a sub-standard vehicular access arrangement.

¹ Letter from Coventry and Warwickshire Partnership NHS Trust, dated 20 July 2020

12. As the proposed development is required to assist the family's disabled child, in my assessment of this aspect of the appeal I am mindful of the Public Sector Equality Duty arising from section 149 of the Equalities Act 2010 (the Act). The Act requires me to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Amongst other things, for the purposes of the Act protected characteristics include disability.
13. I have also considered the impact of dismissing the appeal and the best interests of the child in the context of Article 3(1) of the United Nations Convention on the Rights of the Child and the rights of a child in relation to Article 8 of the European Convention on Human Rights (ECHR), as enshrined in UK law by the Human Rights Act 1998.
14. I am sympathetic to the personal circumstances outlined by the appellant, and I acknowledge that the proposed footway crossing would enable his family to park near to the appeal property with easier access to it, which would be beneficial for them and more significantly their disabled child.
15. Nevertheless, whilst the proposal would offer some benefits to the appellant's family and their disabled child, these do not outweigh the considerable risk to highway safety, which I have already identified. Moreover, Article 8 of the ECHR is a qualified right and, in this case, the interference with it would be proportionate in order to protect the public with regard to the concerns over highway safety.

Conclusion

16. For the above reasons, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR