
Appeal Decision

Site visit made on 22 July 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 December 2020

Appeal Ref: APP/Y3615/D/20/3252473

4 Heather Cottages, Frimley Road, Ash Vale GU12 5NP

- 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 Mrs Katie Lenman against the decision of Guildford Borough Council.
 - The application Ref 20/P/00099, dated 20 January 2020, was refused by notice dated 13 March 2020.
 - The development proposed is a dropped kerb.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant's description of the proposed development in the application form includes wording that relates to the merits of the case. I have omitted this wording in the interests of clarity and to limit the description to the proposed act of development.

Main Issue

3. The main issue is the effect of the proposed development on highway safety, having particular regard to means of access and parking.

Reasons

4. The appeal site is a semi-detached house in a row of similar houses (Nos 1 to 12 Heather Cottages) along one side of Frimley Road. It has a paved garden facing the road with no front boundary wall or fence. The appeal proposal would replace an existing raised kerb with a dropped kerb to create a vehicular access so a car could drive across the pavement and park in the front garden.
5. The appellant's plan¹ shows approximate dimensions such that the width of the front garden is 4.2m and its length is between 3.3m and 3.6m either side. I note that the Highway Authority objected to the appeal proposal because it considers that the space available in the front garden would have substandard dimensions to safely park and manoeuvre a vehicle.² On the evidence before me, I have no reason to reach a different view in this regard and I saw at my site visit that the available space to park a car is reduced by a projecting bay window. There is therefore a realistic likelihood that cars would overhang the

¹ Appendix 1 of the appellant's appeal statement of case.

² Surrey County Council - consultation response, 12 March 2020.

pavement and potentially also part of the carriageway to a greater or lesser extent, for example depending on the size of the car and/or how it would be parked. As a result, this would likely unduly obstruct pedestrians (including children, parents with pushchairs, older and infirm persons, wheelchair users and visually impaired persons), cyclists or passing vehicles.

6. I saw that at many of the houses in this row, cars are parked in front gardens with and without dropped kerbs and some overhang part of the pavement. The appellant has referred to two planning permissions³ granted by the Council for dropped kerbs at neighbouring properties, including a plan for the dropped kerb at No 12 Heather Cottages.⁴ I acknowledge that consistent decision-making is important, however I do not have full details of these cases before me in this appeal so I cannot be certain that they are in fact similar and/or directly comparable. I also note that due to the alignment of the Frimley Road, the front gardens of these houses increase in length towards No 12, which is the longest, and parked cars are therefore less likely to cause obstruction to the pavement or carriageway than at No 4 which is closer to the road.
7. I appreciate that the appellant currently owns a reasonably small car but the appellant's plan also relies on parking at an angle to avoid overhang of the pavement. No tracking plan is provided to demonstrate how this manoeuvre would be achieved in a satisfactory manner. Notwithstanding this, there is no suggested mechanism before me in this appeal to ensure that the appellant or any future occupier of the property would park a 'small' car. Nevertheless, I consider that a planning obligation or condition to that effect would be unreasonable because it would place an unjustified and disproportionate burden by unduly restricting occupation of the property. It would also be difficult to give any sensible meaning, so lack precision, and would be onerous for the Council to enforce. It would not therefore meet all of the relevant tests referred to in the National Planning Policy Framework (the Framework) paragraph 55 and in Planning Practice guidance.⁵
8. Consequently, having regard to the proposed means of access and parking, the appeal proposal would cause significant harm to the safe movement of pedestrians and vehicles on the public highway. It would not accord with Policy ID3 of the Guildford borough Local Plan: Strategy and Sites, April 2019. This policy includes that development should deliver a safe transport system. It would also conflict with Framework paragraphs 108(b), 109 and 110(c) which include that development should achieve safe and suitable access for all users, minimise conflicts between pedestrians, cyclists and vehicles and avoid unacceptable impact on highway safety.

Conclusion

9. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR

³ Council's application references 17/P/02228 and 16/P/0145.

⁴ Appendix 2 of the appellant's appeal statement of case.

⁵ Paragraph: 003 Reference ID: 21a-003-20190723.