

Appeal Decision

Site Visit made on 8 December 2020 by Gareth Sibley MPLAN MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal Ref: APP/W3710/D/20/3258622

429 Higham Lane, Nuneaton CV11 6BD

- 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 Christopher Gray against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 036957, dated 30 January 2020, was refused by notice dated 31 March 2020.
 - The development proposed is gates, brick wall, entrance and dropped kerb
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Decision

1. The appeal is allowed, and planning permission is granted for gates, brick wall, entrance and dropped kerb at 429 Higham Lane, Nuneaton, CV11 6BD in accordance with the terms of the application, Ref: 036957, dated 30 January 2020.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The development has already taken place and as such the appeal was made retrospectively.
4. I have removed the word 'proposed' from the description of development because the development has already taken place.

Main Issue

5. The impact of the development upon highway safety.

Reasons for the recommendation

6. Paragraph 109 of The National Planning Policy Framework (the Framework) notes that "*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*"
7. The house is located on the eastern side of Higham Lane which is a single carriageway that is subject to a 40 miles per hour speed limit. The road has a footpath on the eastern side of the road and is a relatively straight road and

whilst there is junction near to the site, the road is well laid out and is uncomplicated to use. The development has already been built and is similar in appearance to the shared driveway that was approved and has now been constructed at the neighbouring dwelling. Another very similar driveway exists to the front of the property beyond that.

8. The driveway is deep enough for a car to park on it without it overhanging the road whilst the gates are opened or closed. The hedgerow to the south is set back from the roadside and as such it is possible for vehicular users to see past it towards oncoming traffic. In the other direction the view is unobstructed. According to the plan presented by the appellant the hedgerow appears to be within land that the Highway Authority maintains at the public expense. Whilst they may not be required to ensure visibility splays are maintained around private driveways, the hedge is well maintained and there would appear to be no obvious reason why the highway authority would fail to maintain it in future. In any event, there is some distance between the hedge and the carriageway and vehicles exiting the site would still have adequate visibility even if the hedge became slightly overgrown. Moreover, given the straight alignment of the road any oncoming vehicles would have ample warning of a vehicle attempting to exit the driveway and would be likely to drive accordingly.
9. The Council note that a footpath may be built along the western side of the road at some point in the future to help accommodate a large urban extension that is proposed around the site. Substantive evidence has not been submitted that establishes when or if such development is likely to take place. Nevertheless, the Council note that the footpath would be two metres wide which would reduce the depth of the driveway and would mean that cars would overhang the footpath whilst waiting for the gate to open. The amount of time that a car would overhang the footpath would be for a very short period, whilst the gates to the property were opened. This may be a minor inconvenience but there is nothing to indicate that it would have an unacceptable impact upon highway safety. The gate is electrically operated and there is ample space within the curtilage for parking, such that vehicles are unlikely to remain in situ of the pavement for any length of time. Consequently, it is not necessary for the gate to be removed to make the development acceptable.
10. In the event that a pedestrian footpath is built, as already noted, the road is relatively straight and vehicles exiting the driveway would do so at a very slow speed. The footpath would only be constructed as part of the wider residential development that would effectively subsume the area into part of the town. In such urban environments it is common for pedestrians to cross driveways and I see nothing inherently dangerous about the proposed arrangement. Given the unobstructed view in one direction and the very limited obstruction that may be caused by the hedgerow, pedestrians would not be at undue risk from vehicles exiting the driveway.
11. Therefore, the development is acceptable in terms of its impact upon highway safety. As such, the development, on balance, is in accordance with the Residential Design Guide (published 2004) in terms of the layout of the driveway. The development is also in accordance with Policy BE3 of the Nuneaton and Bedworth Borough Council Borough Plan 2011-2031 (adopted 2019) which notes that development proposals must consider the detailed information contained within the supplementary planning documents.

Furthermore, the development accords with the relevant sections of the Framework.

Conditions

12. Given that the development has already taken place, it is not necessary to include the standard time limit condition to begin the development. For the same reason, it is not necessary to include a condition requiring the development to be carried out in the accordance with the approved plans or to condition the materials that have already been used.

Conclusion

13. Therefore, for the reasons given above and having had regard of all other matters raised, I recommend that the appeal should be allowed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I agree that the appeal should be allowed.

Chris Preston

INSPECTOR