
Appeal Decision

Site visit made on 23 February 2021

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 11 March 2021

Appeal Ref: APP/T5150/D/20/3263758

131 Regal Way, Harrow HA3 0SG

- 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 K Kumar against the decision of the Council of the London Borough of Brent.
 - The application Ref 20/2552, dated 19 August 2020, was refused by notice dated 27 October 2020.
 - The development proposed is dropped kerb and associated landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for dropped kerb and associated landscaping, Ref 20/2552, dated 19 August 2020 and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 'Location Plan' and 'Proposed Plan'.
 - 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained tree (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained tree shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

Preliminary Matters

2. During the determination of the application, the council changed the description of development to include only those elements requiring planning permission. I have therefore used the description of development on the decision notice for clarity.

Main Issues

3. The main issues are:

- The effect of the proposed development on pedestrian safety;
- Whether the proposed landscaping scheme is in accordance with the development plan, and
- The effect of the proposed development on the tree to the front of the appeal property.

Reasons

Pedestrian Safety

4. The proposed development would result in a widened vehicular access into the front garden of 131 Regal Way, which is a semi-detached two storey dwelling in a suburban street of similar houses. Regal Way is a relatively quiet residential street where there are a variety of off-street car parking and driveway arrangements, particular to each dwelling.
5. The vehicular access to 131 is narrow, particularly in comparison to the adjacent neighbouring property at 129 Regal Way. I noted that as the road bends slightly, having looked at other properties in the street, there were some crossover access points in place for some properties, partly as a result of the width of the frontages (which varied) albeit these were more the exception, than the rule.
6. Policy DMP11 (Forming an Access on to a Road) of the Brent Council Development Management Policies (2016) (DMP) states that the creation of an access onto a highway will be acceptable where it would not result in the loss of more than one on street parking space and where it would be in a safe location.
7. Policy DMP12 (Parking) of the DMP seeks development that does not have a negative impact on existing parking levels. The policy also seeks to preserve existing enclosures, street trees and to provide adequate soft landscaping (50% coverage), permeable surfaces and other treatments to mitigate surface water run-off.
8. It is clear to me that the driveway access could be used by one vehicle, albeit it requires a car to partially mount the kerb. I therefore do not agree that there is evidence before me to demonstrate that such movement would compromise pedestrian safety. I also note that the appellant has installed an electric vehicle charging point to the front of the host dwelling, which clearly reinforces the need for adequate parking to the front of the house (and in the absence of a driveway to the side of the house). I note that the development would result in the loss of approximately one on-street parking space. I therefore consider the proposals would not offend policy DMP11.

Landscaping

9. The Domestic Footway Vehicle Crossover Policy (2018) (VCP) document provides supplementary guidance to ensure that safe crossovers are designed and constructed appropriately, and where such crossovers are proposed that adequate soft landscaping is provided within front gardens to offset visual impacts and to mitigate surface water runoff.
10. At the site visit, the front garden of 131 Regal Way was covered in hard surfacing which appeared to have been added some time ago. It was therefore

clear to me that more than 50% of the front garden had already been covered with hardstanding. The appellants are proposing to add a formal flower bed along the side boundary wall. This would not extend to 50% of the front garden area, however it was apparent to me that in light of the size of the front garden, the fact that it already provides space for one car already it would be unreasonable to expect the appellant to provide 50% of the garden as soft landscaping in light of the current situation.

11. Whilst therefore, I consider the proposals to be contrary to the Domestic Footway Vehicle Crossover Policy (2018) (VCP) document and policies DMP11 nor DMP12 in this regard, I consider the existing situation constitutes a 'fallback' position and that the proposed flowerbed would go some way towards improving the current situation.

The effect on the tree

12. There is a tree to the front of the appeal site boundary with the neighbouring property at 133 Regal Way within the verge. Like other verges along the street, it appeared to me that cars mounting the kerb or parking partly on the verge have 'poached' the ground within this particular verge. This alone may have an effect on the condition of the tree and its root protection area.
13. I note the council's concern over the tree and agree that damage could occur to it without the use of mitigation (contrary to policy DMP12). However, I do not consider, on its own, this would be sufficient justification to dismiss the appeal. I have therefore included a planning condition to ensure the appellants agree protective measures for the tree with the council, prior to the commencement of development.

Conditions

14. I have applied standard conditions (1) and (2) in the interests of precision and certainty and a further condition (3) required to be agreed before development commences, in order to ensure the protection of the tree within the highway verge, in accordance with policy DMP12.

Conclusions

15. For the reasons given, and having regard to all other matters raised, the appeal is allowed, subject to the conditions set out above.

Sian Griffiths

INSPECTOR