

Appeal Decision

Site visit made on 21 September 2021

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 October 2021

Appeal Ref: APP/C3105/D/21/3275152

113 Cromwell Road, Banbury, Oxfordshire OX16 0HF

- 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 Lizhu Guo against the decision of Cherwell District Council.
 - The application Ref 20/03210/F, dated 10 November 2020, was refused by notice dated 5 March 2021.
 - The development proposed is formation of means of access and associated dropped kerb.
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Decision

1. The appeal is dismissed

Preliminary Matters

2. The description of the development above is taken from the Council's decision notice, as it more accurately describes the development by also referring to the formation of an access. I have determined the appeal on this basis.

Main Issues

3. The Council has provided a single refusal reason, but which contains two separate concepts. Therefore the main issues are (i) the effect of the proposed development on the character and appearance of the area, and (ii) the effect of the proposed development on highway safety.

Reasons

Character and appearance

4. The appeal site is within a predominantly residential area with buildings of a mostly uniform appearance, with Cromwell Road lined along its entire length by mature trees planted at regular intervals on its grassed verges. These form an attractive local landscape feature that positively contributes to the street scene.
5. The proposed installation of a dropped kerb would involve the removal of one of these trees. This approximately aligns with the tree on the other side of the road, giving a uniformity to the streetscape. The proposal would remove a distinctive landscape feature, which currently helps softens the otherwise hard landscaping of the appeal site's front garden, and would therefore have an adverse effect on the character and appearance of the streetscape.
6. There is another tree planted quite close to the tree proposed for removal, which is approximately aligned with the boundary with the adjacent semi-

detached property. The Council expresses concerns that the proposed development could adversely affect the integrity of this second tree and prompt the need to remove it as well. There is no submitted evidence to show how this second tree would be protected or that it would not be harmed by the formation of the access and dropping the kerbstones in close proximity to it. The potential loss of two trees would further worsen the adverse effect on the character and appearance of the streetscape and area.

7. The appellant wants 1-2 dedicated parking spaces at the property for when she returns home from work late at night. She refers to being treated unfairly and differently as other houses in the area have dropped kerbs. I have not been provided with the details or circumstances of these other situations, or that they share the same site characteristics as the appeal proposal. Therefore I am unable to make any meaningful comparisons. In any event, I must consider the appeal proposal before me on its own merits.
8. However, walking along Cromwell Road I saw that a number of properties had dropped kerbs giving access to parking on the front or side driveways that had been created. These accesses tended to coincide with there being no tree outside the property, due to the pattern of tree planting. In places some cars were being parked on the grass verge and some vehicles had gained access to their front areas without a dropped kerb. A good many other properties did not have a dropped kerb or on-site parking. There was on-street parking and no traffic restrictions limiting this.
9. I conclude that the proposal would harm the character and appearance of the area. According to Policy ESD10 of Cherwell Local Plan 2011-2031 Part 1 (the 'Local Plan') the Council aims to increase the number of trees and encourage the protection of existing trees. The proposed development would be in conflict with this. Furthermore the loss of one, possibly two, mature trees that positively contribute to the character and appearance of the area would be contrary to Local Plan Policy ESD15. This expects, amongst other things, that new development respects local landscape features, such as significant trees.

Highway safety

10. Cromwell Road is two lanes wide. However, the avenue of trees tends to obscure the footways either side from view. I concur with the Council that the trees help to reduce the perceived width of the road to some extent.
11. The appeal property is at the entrance to Cromwell Road where the trees start. In my view, the loss of a tree here, possibly two, outside the appeal property will not cause a gap or noticeably reduce the avenue of trees in this location as to reduce any perceived road width.
12. From my observations on site, the presence of trees along Cromwell Road is not a determinative factor in traffic speeds. There is on-street parking on alternate sides of the road, which I saw acted as a traffic-calming measure as drivers had to wait for others to pass. Furthermore, Cromwell Road is subject to a 20 mph speed zone, evidenced by the road signs outside and in close proximity to the appeal site. In addition, the junction with Warwick Road is wide giving drivers time to adjust their speeds as they drive into Cromwell Road.

13. In my view these factors combine to create an environment where traffic speeds are likely to already be reduced. The trees will contribute in some way to that. However, no substantive evidence or technical data has been presented by the Highways Authority to demonstrate what effect the loss of one or two trees at the appeal site will have. Consequently, I am not satisfied that the loss of one or two trees in this part of Cromwell Road would result in an increase in traffic speeds to the detriment of highway safety.
14. Therefore, in my view the loss of a tree, or possibly two, outside the appeal property would not detrimentally impact on the local highway network from a traffic and safety point of view to cause significant and demonstrable harm to local highway safety. Accordingly the proposal would not conflict with Local Plan Policy ESD15 which seeks, amongst other things, to ensure development integrates with existing streets and delivers safe places to live.

Conclusion

15. Drawing all things together, the lack of harm to highway safety is a neutral factor in my considerations. However, I find the proposed development would harm the character and appearance of the area. I am sympathetic to the appellant's reasons for wanting the dropped kerb, but this does not outweigh the harm I have identified.
16. The proposal would not accord with the development plan and there are no other considerations which outweigh this finding. The appeal should be dismissed.

K Stephens
INSPECTOR