



Appeal Decision

Site Visit made on 26 October 2021

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 DECEMBER 2021

Appeal Ref: APP/X5990/D/21/3276696

8 Westbourne Park Road, London W2 5PH

- 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 E Zegna against the decision of City of Westminster Council.
 - The application Ref 20/08222/FULL, dated 22 December 2020, was refused by notice dated 19 March 2021.
 - The development proposed is partial demolition of front boundary wall and railings and replacement with metal sliding gates to provide off-street parking.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the refusal of the application, the Council has adopted the City of Westminster City Plan 2019-2040 (the 2021 City Plan), in April 2021. The Council has confirmed that the 2021 City Plan policies replace those from the previous Westminster City Plan (adopted 2016) and the City of Westminster Unitary Development Plan, which are referred to in its reason for refusal. I have considered the appeal accordingly. Both main parties have confirmed the Policies from the 2021 City Plan they consider relevant to this appeal, and I am satisfied that both have had the opportunity to comment on this.
3. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. I have given the main parties the opportunity to comment on this and have considered the appeal on the basis of the revised Framework.
4. From the evidence before me, the Council assessed the proposal having regard to the appellant's revised Technical Transport Note, dated January 2021. I have determined the appeal on the same basis.

Main Issue

5. The main issues are the effects of the proposed development on:
 - pedestrian safety; and
 - the supply of on-street car parking.

Reasons

6. The appeal relates to a terraced house at 8 Westbourne Park Road. It is proposed to replace a section of the site's front boundary wall and railings with

metal sliding gates, and to remove a number of small trees and an area of landscaping, in order to create a parking space within the front garden.

7. Westbourne Park Road is a relatively wide residential street, with on-street parking bays marked out along its length on either side. There are a number of existing vehicle crossovers within the footway on the northern side of Westbourne Park Road close to the site.

Pedestrian safety

8. Paragraph 7.6.3 of Manual for Streets (MfS) states that drivers need to be able to see obstructions down to a point 0.6m above the carriageway, to ensure that small children can be seen. The 'required heights for unobstructed visibility' diagram in Appendix 7.6 of the Council's Highways Planning Guide (the HPG) is consistent with the advice in MfS. As pedestrians, including children, are most likely to be on the footway rather than in the carriageway, in my view it is reasonable to apply that guidance to visibility along the footway.
9. This approach has been adopted on the Proposed Vehicle Crossover & Visibility Splays drawing¹ in the appellant's Transport Technical Note. This shows 2.4m x 2.4m pedestrian visibility splays for the proposed off-street parking space, measured from the back edge of the footway. The splay to the east of the parking space would pass through a section of boundary wall that would remain on the site frontage.
10. The Transport Technical Note states that any walls within the visibility splays would be kept to a maximum height of 0.6m. However, according to the Proposed Front Elevation drawing², the lower, solid part of the front boundary wall would be 1.15m high, considerably taller than the 0.6m recommended by MfS and the HPG. It would therefore present a significant obstruction to visibility, increasing the risk of a driver being unable to see a child approaching along the footway from that direction.
11. The site is close to a local shopping parade on Porchester Road, and Royal Oak underground station. Westbourne Park Road provides access from those nearby amenities, to the east, into the large residential estate beyond the site to the west. The footway along the site frontage is therefore likely to be well-used. In that context, even if drivers were to leave the site quite slowly, I consider that the substandard visibility would result in an unacceptable risk to the safety of pedestrians travelling along the adjacent footway, and particularly to vulnerable highway users including small children, who may not be aware of the possibility of vehicles emerging from the site and the associated potential hazards.
12. Furthermore, the visibility splays indicated assume that a vehicle would leave the site in a forward gear. However, as there would not be sufficient space for a vehicle to turn within the site, I cannot be certain that drivers would reverse into the space and leave the site in a forward gear. Anyone reversing from the site would find it even more difficult to see any pedestrians approaching along the footway, thus further exacerbating the risk to pedestrian safety.
13. The use of sliding gates at the proposed entrance, which could be secured by condition, would ensure that there would be no obstruction of the footway.

¹ Drawing number: 2020/5609/002 Revision P3.

² Drawing number: 1299.04.GA.200

However, they would not diminish the harm to pedestrian safety that I have identified from the creation of the new access.

14. I observed numerous existing vehicular footway crossovers close to the site, and that the site is one of the few properties on the northern side of this part of Westbourne Park Road which does not have off-street parking. However, I am not familiar with the circumstances in which those existing accesses were created and cannot be certain that they were comparable to those in the case before me which, in any event, I have considered on its own planning merits.
15. Pedestrians may be familiar with other vehicular crossovers nearby and other hazards such as vehicle doors opening into the footway. However, taking all of the above factors into consideration, and based on the specific proposal before me, I conclude that the further access proposed in this case would present an unacceptable risk to pedestrian safety. It would therefore conflict with Policies 25, 27 and 28 of the 2021 City Plan insofar as they require development to prioritise the pedestrian environment and that parking areas are designed to a standard which accommodates the need for safe pedestrian movement. It would also conflict with the Framework, which requires that safe and suitable access to the site can be achieved for all users.

On-street parking

16. The proposal would result in the loss of a length of on-street parking bay from Westbourne Park Road in front of the site. As a result, there would be one fewer on-street parking space on Westbourne Park Road. The site is within a Controlled Parking Zone, where parking restrictions limit on-street parking to permit holders only at certain times.
17. The supporting text to Policy 27 of the 2021 City Plan defines high parking stress as 'over 80% of on-street parking spaces being occupied during the day or at night, in compliance with existing parking restrictions. When occupancy is above this figure, residents are more likely to have difficulty in finding a suitable parking space.
18. The appellant has commissioned a survey, in their Transport Technical Note, which considers the capacity of existing on-street parking in the vicinity of the site. The Council has not contested the methodology or conclusions of that survey with reference to any substantive evidence to the contrary.
19. The appellant's survey demonstrated that, even at the time of greatest on-street parking demand in the vicinity of the site, occupancy was 74.11%, and thus below the 80% high parking stress threshold defined by the Council.
20. As the proposed off-street parking space would only be available to the occupants of the appeal property, it would not be a like-for-like replacement for the existing public on-street parking bay. However, given the availability of on-street spaces nearby and the observed levels of use, I am satisfied that the loss of one on-street parking space would not lead to unacceptable parking stress in the vicinity of the site. There is therefore no need for the provision of a replacement on-street space.
21. Given the above, I conclude that the proposed development would not have an adverse effect on the supply of on-street parking. Therefore, it would not conflict with the aims of Policies 27 or 28 of the 2021 City Plan insofar as they

seek to manage parking provision and minimise the loss of kerb space for parking.

Other Matters

22. The site is within Westbourne Conservation Area (WCA). The Council has assessed the heritage effects of the proposal and concluded that the removal of part of the front boundary wall would be acceptable and would preserve the character and appearance of the WCA, provided that details of the railings and other matters were the subject of suitable conditions. On the basis of the evidence and my own observations, I have no reason to come to a different conclusion in that regard.
23. The development would include provision for an electric vehicle charging point and may make access to the property in the future easier for someone with disabilities. However, these benefits do not outweigh the harm to pedestrian safety that I have identified.
24. I have had regard to other concerns raised by interested parties. However, as I have found the proposal unacceptable for other reasons, I have not needed to consider those other matters further in this case.

Conclusion

25. Although I have found no harm to parking availability, I have concluded that there would be unacceptable risk to pedestrian safety. That latter harm alone is a sufficient reason to dismiss the appeal.
26. Therefore, the proposal would conflict with the development plan taken as a whole. Material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Jillian Rann
INSPECTOR