
Appeal Decision

Site visit made on 10 January 2022

by David M H Rose BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st January 2021

Appeal Ref: APP/M1005/D/21/3283100

81 and 79 Pentrich Road, Ripley, Derbyshire, DE5 3DS

- 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 Andrew Webb against the decision of Amber Valley Borough Council.
 - The application Reference AVA/2021/0476, which was valid on 30 April 2021¹, was refused by notice dated 25 June 2021.
 - The development proposed is the formation of dropped kerbs to frontage of both houses².
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Decision

1. The appeal is allowed, and planning permission is granted, for the formation of dropped kerbs to frontage of both houses at 81 and 79 Pentrich Road, Ripley, Derbyshire, DE5 3DS in accordance with the terms of the application, Reference AVA/2021/0476, validated on 30 April 2021, 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 approved plans.

Application Plans

2. During the course of the application, the appellant provided additional drawings, in response to a request from the Highway Authority. These are Dwg No: 1 Existing Site Plan; Dwg No: 2 Proposed Site Plan; Dwg No: 2A Proposed Site Plan; and Dwg No: 3 Visibility Splays. Drawing 2A showed a reduced area of dropped kerb to facilitate parking parallel to the highway. It is clear from the Officer Report that this drawing did not form the basis of the Council's decision and I do not need to consider it further.

Application for costs

3. An application for costs was made by Mr Andrew Webb against Amber Valley Borough Council. This application is the subject of a separate Decision.

¹ Section 13 (Declaration) of the application for planning permission was neither signed nor dated

² Description of the development was set out in various terms – I have amended these for clarity

Main Issue

4. The main issue is the effect of the proposal on highway safety.

Reasons

5. Numbers 63 to 81 (odd numbers inclusive) Pentrich Road comprise two rows of houses with a more or less common set back from the highway³. Numbers 63, 65, 69 and 75 have dropped kerbs and forecourt parking. Planning permission has also been granted for similar works at no. 67. Other than the latter, I have no details of the related planning history⁴.
6. Nonetheless, none of the existing parking spaces appear to have the requisite depth of 5.5 metres; and visibility splays, in the manner sought for the appeal proposal, are not readily evident. Indeed no. 63 is flanked by the gable wall of no. 61 which extends forward to the rear edge of the footway.
7. In common with those properties which have off-street parking, the appeal proposal would be capable of providing space for small or medium sized vehicles to park without partially overhanging the footway. Additionally, the visibility available to an emerging driver would not be markedly less. That said, it has to be accepted that the current arrangements for off-street parking, and the presence of kerbside parking, present potential hazards to both pedestrians and passing vehicles.
8. Taking these drawbacks in context, Pentrich Road was seen to have a light and intermittent traffic flow. It is narrow with kerbside parking along its western side and daytime no waiting restrictions on the opposite side. This directs the predominant free flow away from the houses. In addition, this section of the street is generally straight, and the *ad hoc* arrangement of parking provides a clear signal to both pedestrians and drivers of possible dangers.
9. It is also relevant to note that the removal of kerbside parking along the frontage of 79 and 81 would offer better visibility of vehicles approaching from the direction of Butterley Hill for drivers leaving the access that serves the rear of 81 and 91 Pentrich Road⁵.
10. The appellant has also drawn my attention to the recent approval of dropped kerbs at 67 Pentrich Road. Whilst each case has to be assessed on its site specific circumstances, consistency in decision making is nonetheless important. It is notable that the Council has only sought to provide some clarity of its concerns in its rebuttal of the application for costs.
11. In this regard, reference is made to the absence of physical boundary wall issues between 63 – 69 Pentrich Road. However, I noted at my site visit that no. 67 is flanked by boundary fences on both sides. It is not stated whether either of these is to be removed/lowered as part of the approved scheme.
12. Moreover, any requirement for a visibility splay ignores the obstructing effect of a vehicle standing on the adjacent forecourt(s) and does not explain the apparent deficiency in the depth of the bay. It should also be noted that the

³ Visual inspection suggests some narrowing towards 79 and 81

⁴ The Council has not alleged that any of these are unauthorised

⁵ The Officer Report acknowledges that 'The loss of such parking would evidently improve the use of the road for pedestrians and vehicles'.

visibility splay sought would, in any event, have a very limited benefit for a driver of a vehicle that has parked in a forward facing direction. In this regard, it is likely that manoeuvring on to the highway would begin before the visibility splay had been 'engaged'.

13. Although the Council alleges conflict with Policy TP1⁶, which requires 'satisfactory access to the transport network', and its consistency with paragraph 110 b) of the Framework⁷, paragraph 111 of the Framework indicates that 'Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety'.
14. In my opinion, when considered in the round, the proposal would not have an unacceptable impact on highway safety and the material circumstances identified would outweigh conflict with recommended standards and the development plan.
15. I have noted the concerns of a neighbouring resident that the proposal would reduce the availability of on-street parking opportunities for those who do not have exclusive parking. However, this does not provide a compelling basis to dismiss the appeal.
16. Having considered all other matters raised, I conclude that the appeal should be allowed.

David MH Rose

Inspector

⁶ Saved Policy - Amber Valley Borough Local Plan Adopted 2006

⁷ National Planning Policy Framework – July 2021