
Appeal Decision

Site visit made on 8 February 2022

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 FEBRUARY 2022

Appeal Ref: APP/A1530/W/21/3286653

Linslade, 259 Maldon Road, Colchester, CO3 3BG

- 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 L Safiah against the decision of Colchester Borough Council.
 - The application Ref. 211284, dated 6 May 2021, was refused by notice dated 18 August 2021.
 - The development proposed is dropped kerb.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on highway safety, with particular reference to pedestrians.

Reasons

3. The appeal property is located on Maldon Road, a seemingly busy Class B road. It is near the junction with Capel Road, from which rear access appears to be taken to reach a garage at the end of the garden. The front garden is elevated above the footway and is a mixture of paving and planting, with a low brick wall forming the front boundary. Some properties in the vicinity have vehicular access onto Maldon Road, but other front gardens are free of parking.
4. The Council's delegated report confirms that the proposed dropped kerb is to facilitate vehicle parking in the front garden, with the associated works undertaken as 'Permitted Development'. The intention to create a parking area is confirmed in the appeal statement. I share the Council's assessment that the application for a dropped kerb is intrinsically linked to the proposed vehicle parking, and that such works would not proceed without the dropped kerb, and vice versa.
5. On that basis, the Council's adopted parking standards identify a preferred parking space size as 5.5m x 2.9m, with a minimum bay size of 5.0m x 2.5m to be used only in exceptional circumstances, as determined by the Local Planning Authority. Despite the width of the front garden, my assessment on site was that there would be insufficient depth between the front of the dwelling and the back edge of the footway to accommodate a perpendicular space of the required size; and on the basis of the information available, I am not convinced that a parallel space would be achievable without manoeuvring

on the footway. The depth available for a perpendicular space is materially below the 5.5m required, but also below the exceptionally applied 5.0m depth. The precise location of the intended parking space is not identified, but the potential for siting and manoeuvring would also likely be affected by the need to avoid the existing front door cill and an oriel window which projects into and above the front garden.

6. The absence of sufficient space for a vehicle to stand clear of the footway could give rise to obstruction for pedestrians, potentially forcing them onto a busy carriageway. The limited on-site space would likely result in vehicles manoeuvring on the pavement or highway, either reversing into or from the proposed parking area. This would introduce unnecessary hazards to the detriment of the safety of pedestrians, including those with restricted mobility or vision and with pushchairs, and other road users.
7. There are vehicular accesses in the vicinity, and the appellant has provided photographs of some, including examples of properties which appear to have deeper front gardens and driveways than in this case. No specific planning permissions for the examples cited have been identified, and therefore it is not known what standards were in place at the time of their installation. Indeed, some crossovers lead to clearly substandard parking spaces for the size of modern vehicles, and do not justify the proposal. Applying current standards, the proposal would result in a material shortfall in parking space size.
8. The appellant advises that off-street parking should be viewed as highly preferable from a highway safety perspective to a car being parked on the road unnecessarily. However, on-street parking appears to feature along this stretch of Maldon Road, and no evidence has been supplied to indicate that it causes undue hazards. In contrast, a development which would cause obstruction of or manoeuvring on the footway has the potential to be more harmful.
9. The Council's report advises that the proposal is required for on-site charging of an electric vehicle. Whilst the environmental benefits of this are noted, they must be balanced against the impact of the proposal on public safety.
10. I therefore conclude that the proposal would have the potential to result in obstruction of and manoeuvring on the footway, to the detriment of the safety of pedestrians and road users. This would be contrary to the highway safety aims set out at paragraphs 111 and 112 of the National Planning Policy Framework, and Policy DP17 of the Council's Development Policies Development Plan Document, which amongst other criteria requires access to all development to be created in a manner which maintains the right and safe passage of all highway users.

Other Matters

11. I note the appellant's comments about the processing of the application, but such matters cannot be explored in a Section 78 planning appeal, and I have considered the appeal on its planning merits.

Conclusion

12. For the above reasons, I conclude that this appeal should be dismissed.

H Lock INSPECTOR