
Appeal Decision

Site visit made on 8 February 2022

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2022

Appeal Ref: APP/F2415/W/21/3280803

Horton House, Main Street, Mowsley LE17 6NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Paul Handford against the decision of Harborough District Council.
 - The application Ref 21/00066/FUL, dated 2 September 2020, was approved on 18 March 2021 and planning permission was granted subject to conditions.
 - The development permitted is creation of a new access to shared driveway.
 - The condition in dispute No.3 which states that: *Notwithstanding the details on the approved plans, the gates shall be made of timber, shall be inward opening, and set back a minimum distance of 5m from the carriageway edge.*
 - The reason given for the condition is: *In the interests of visual amenity and for the safety of persons and vehicles using the adjoining street, having regard to Harborough Local Plan Policy GD8, and the National Planning Policy Framework.*
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Decision

1. The appeal is allowed and the planning permission Ref 21/00066 for the creation of a new access to shared driveway at Horton House, Main Street, Mowsley LE17 6NT granted on 18 March 2021 by Harborough District Council, is varied by deleting condition No.3 and substituting for the following condition:
 - 3) Notwithstanding the details on the approved plans, the gates shall be made of timber and shall be inward opening.

Main Issue

2. The main issue is whether or not the disputed condition is reasonable and necessary in the interests of the character and appearance of the area and highway safety.

Reasons

Character and Appearance

3. The appeal property is bound by a brick wall set behind a grass verge and includes both vehicular and pedestrian accesses with gates. This is generally reflective of other houses along Main Street, which display a consistent set-back from the highway.
4. I understand the Council expressed regret at the partial loss of the wall for aesthetic reasons, although accepted that the wall could be demolished without the need for planning permission. In this regard, the Council state in their

officer report that the appellant accepts the part of the condition which specifies the gates would be of timber construction. This is reflected in the appellant's appeal statement which raises no objection to this part of the condition.

5. Moreover, the planning application form highlights that no materials are to be used externally and as such, this part of the condition is reasonable and necessary in order to provide clarity and maintain the character and appearance of the area.
6. Based on the above, the specifying of timber for the construction of the gates in condition 3 is reasonable and necessary in the interests of the character and appearance of the area. This would ensure compliance with Policy GD8 of the Harborough Local Plan 2011 to 2031 (LP) (adopted April 2019), which seeks to ensure development is sympathetic to the local vernacular. This would also ensure adherence to guidance in the National Planning Policy Framework (the Framework) which seeks to ensure development is sympathetic to local character.

Highway Safety

7. The existing vehicular access is set back from Main Street by a grass verge. This distance is given as 1.2m which I have no reason to doubt. I understand the Council has concerns regarding the delay while the gates open, meaning any vehicle seeking to access the front parking area would be stationary on the road and potentially create a hazard for drivers of approaching vehicles. To address this, the condition states the access should be set back from the highway by a minimum of 5m so that a vehicle waiting to turn into the property can clear the highway while the gates open.
8. However, even if a vehicle is waiting on the road, this delay would be brief, and the waiting vehicle could pull in closer so as to not block the entirety of the highway. In any event, there is adequate room for another vehicle to pass if the opposite side of the road is clear.
9. Moreover, Main Street is residential in character and lightly trafficked with a speed limit of 30 miles per hour (MPH). As such, approaching vehicles would have time to slow down and would have good visibility of the access location while they wait for the vehicle to clear the highway. Given the number of other accesses to properties on Main Street, few of which appeared to include areas sufficient in size to turn and enter and exit in a forward gear, this arrangement would not be unusual in the area.
10. Given I have concluded that a set-back of 5m is not reasonable or necessary, it does lead me to conclude that the element of the condition which states the gates must open inwards should be retained. This is in order to keep the highway clear of potential obstruction, although the approved plans do indicate that the gates would open this way regardless. As such this does not appear to be in dispute.
11. Overall, I conclude on this issue that the set-back of the access of 5m from the highway would not be reasonable or necessary to ensure highway safety, although I have concluded that the gates should be specified to open inwards. This would ensure there would be no conflict with Policy GD8 of the LP which requires, among other things, for development proposals to ensure safe access

and the safe, efficient and convenient movement of all highway users. There would also be no conflict with the Framework, which advises in paragraph 110(b) that applications for development should ensure a safe and suitable access to the site can be achieved for all users.

Conclusion

12. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed and condition 3 should be deleted and replaced with revised wording as set out.

C McDonagh

INSPECTOR