



Appeal Decision

Site visit made on 31 May 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 June 2022

Appeal Ref: APP/F5540/W/22/3293380

244 Twickenham Road, Isleworth TW7 7DS

- 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 Behrooz Ghaderi against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01137/244/P3, registered 27 November 2021, was refused by notice dated 14 February 2022.
 - The development proposed is formation of vehicular access at front of property.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposal on the safe and efficient operation of the highway network in the vicinity of the site;
 - ii) the effect of the proposal on the character and appearance of the area with particular regard to trees; and,
 - iii) if there would be harm, whether this would be outweighed by other considerations including the personal circumstances of occupiers of the appeal site.

Reasons

Highway Network

3. The appeal proposes a vehicular access from the A310 Twickenham Road which it is intended would serve hardstanding to the front of the appeal dwelling, enabling its use for parking. The evidence before me does not demonstrate that vehicles would be able to turn within the site, and given the dimensions of the frontage, it seems to me that this is unlikely to be possible. On this basis, the proposal would lead to vehicles reversing onto Twickenham Road from the site, or onto the site from Twickenham Road. In addition, there are boundary fences to either side of the site, with brick pillars adjacent to the footway. These features are of a height that would be likely to restrict clear lines of sight for vehicles leaving the site until they had emerged some way onto the footway, and I have not been provided with firm evidence to demonstrate that visibility splays in accordance with those specified by Manual for Streets as is required by the Council's Residential Crossovers and Off-Street Parking Policy 2016 could be achieved.

4. As it passes the site, Twickenham Road includes cycle lanes and footways in both directions, and a median strip. The appellant has not disputed the Council's statement that the flow of traffic here is often heavy, and while this was not the case when I visited the site late morning, it was still reasonably busy, and my impression was that vehicles were generally travelling at or around the 30mph speed limit.
5. Against these conditions, I consider that the above factors in combination would lead to a significant increase in the likelihood of conflict between vehicles accessing or egressing the site and users of the footway, cycle lanes and highway, causing unacceptable harm to highway safety on this classified road. The proposal would also be likely to adversely affect the safe flow of traffic while vehicles reversed onto or off of the site.
6. I recognise that some other properties nearby, including opposite the site, do have crossovers. However, I do not know the circumstances which applied in those cases or the relevant policy context at the time. In any event, and irrespective of whether neighbouring residents have objected to the proposal, I do not find the existence of other crossovers near to the site a compelling reason to allow further development that I find would undoubtedly increase hazards and risk to users of the highway, footway and cycle lane.
7. I therefore conclude on this main issue that the proposal would cause unacceptable harm to the safe and efficient operation of the highway network in the vicinity of the site. It would accordingly conflict with Policy EC2 of the Local Plan 2015-2030 which sets out, amongst other things, that development proposals should be consistent with the Council's adopted policy on vehicle crossovers, and should demonstrate that adverse impacts on the transport network are avoided.

Character and Appearance

8. There is a very large street tree to the front of 242 Twickenham Road, close to the boundary of the appeal site. Although not directly in front of the appeal property, it seems likely given the substantial scale and proximity of the tree to the site that it would have roots extending beneath the area of the proposed crossover where some excavation would be required to enable access from the highway. I have not been provided with any objective assessment or evidence to demonstrate that the crossover could be constructed without affecting the tree roots. Accordingly, I cannot be confident that the development would not harm the health or condition of this tree, and I can give very little weight to the appellant's suggestion that the tree would not be damaged.
9. The tree is a prominent feature which makes a significant contribution to the character and appearance of the Twickenham Road street scene. Consequently, any harm to or loss of this tree would adversely affect the character and appearance of the area.
10. In the absence of robust evidence to demonstrate that there would not be detriment to the street tree adjacent to the site, I can only conclude that the proposal would harm the character and appearance of the area. It would therefore be contrary to Policy GB7 of the Local Plan which seeks to protect biodiversity and existing trees. Although not cited in the reason for refusal, the Council's report additionally refers to Policy CC2 of the Local Plan which includes requirements seeking attractive and distinctive places and expects

suitable protection for trees. The proposal would also be contrary to these objectives.

Other Considerations

11. The proposal would enable convenient access immediately to the front of the appeal property for occupiers of the site, and the appellant indicates that it is supported by the Member of Parliament for the area. The sensitive nature of the health information that has been submitted to me as part of the appeal means that it would not be appropriate to discuss it in detail. However, I have no doubt that the proposal would offer potential to reduce difficulties that the evidence including letters from healthcare professionals indicate are currently experienced by occupiers of the site, improving their wellbeing and living conditions. This would be an important benefit of the proposal.
12. In addition, the appellant has referred to incidents of vandalism to vehicles that have been parked on street near to the site, causing financial and psychological stress. The information submitted to me does not include documentary evidence of support for the proposal from police and community safety officers that they refer to. Even so, I have no firm reason to doubt that potential for direct surveillance of vehicles from the appeal dwelling could help to deter future incidents, benefitting occupiers' feelings of safety and security.
13. In these regards, the proposal would accord with Policy CC2 of the Local Plan insofar as it seeks development that is fully accessible to people with disabilities or impaired mobility and places that feel safe.
14. I have also taken into account that disability is a relevant protected characteristic for the purposes of the Public Sector Equality Duty contained in section 149 of the Equality Act 2010 ('the PSED'). The PSED requires due regard to the need to eliminate discrimination, harassment and victimisation; to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It further explains that advancing equality of opportunity involves having due regard, in particular, to considerations including the need to remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; and to take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.
15. The Council refers to the possibility of installing a disabled bay at the top of Chestnut Grove which could offer potential for parking in reasonably close proximity to the site. A dedicated bay in this location could help to reduce the distance between a parked vehicle and the dwelling, but I appreciate that it would not allow access to the dwelling within quite such a short distance as the appeal proposal. I am also not persuaded that provision of parking to the rear of the dwelling accessed via Chestnut Grove would be realistic given the presence of an outbuilding to the rear of the site. The access difficulties currently experienced by the occupiers of the site would therefore continue without the proposed development. There would also be no potential of direct surveillance of vehicles from the dwelling.

16. Having considered the evidence before me, I afford the appellant's personal and health circumstances significant weight in favour of the appeal. However, I find on the basis of the submitted information that the proposal would lead to considerable potential for conflict between traffic associated with the site and other highway, footway and cycleway users. In my judgement, the consequent risks to the general public through harm to highway safety would be substantial, and is also a matter to which I afford significant weight. In addition, I have insufficient evidence to be able to conclude that there would not also be harm to the character and appearance of the area through adverse effects on the adjacent street tree. I give moderate weight to the further harm that would arise in this respect.
17. I sympathise with the appellant, and acknowledge that the proposal would result in important benefits to occupiers of the site. However, that does not mean that the adverse impacts of the development are of no importance, and it has not been shown that the harm I have identified could be overcome by imposing conditions. The personal circumstances of the appellant can also be expected to change over time, whereas the harm that I have found the development would cause to highway safety and the character and appearance of the area would persist in perpetuity.
18. In these circumstances, I do not consider that the personal and health circumstances of the occupiers of the appeal dwelling would be sufficient to outweigh the cumulative harm to public safety and to the character and appearance of the area. I find the wider public interest in respect of the degree of increased danger to the safety of users of the highway in combination with harm to the character and appearance of the area to be determinative, and I find on balance having due regard to the PSED that refusal of permission would in this instance be proportionate.
19. I have also taken into account the European Convention on Human Rights as incorporated by the Human Rights Act 1998, and in particular the rights to respect for private and family life and protection of property in Article 8 and in Article 1 of the First Protocol. Dismissing the appeal would interfere with the appellants' rights under Articles 1 and 8. However, these are qualified rights whereby interference may be justified in the public interest, albeit that the concept of proportionality is crucial. Having regard to public interest inherent in the legitimate and well-established planning policy aims of protecting highway safety and local character, I find that refusal of permission would be proportionate and necessary, and would not unacceptably violate the appellant's rights under Articles 1 and 8. The protection of the public interest cannot be achieved by means that are less interfering of their rights.

Conclusion

20. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the health and personal circumstances of the appellant do not indicate that a decision contrary to the development plan should be reached.
21. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR