

Appeal Decision

Site visit made on 31 May 2022

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27TH June 2022

Appeal Ref: APP/X1545/D/22/3293802

59 East Street, Tollesbury, Maldon, Essex CM9 8QE

- 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 Heath Brand against the decision of Maldon District Council.
 - The application ref. HOUSE/MAL/21/01128, dated 26 October 2021, was refused by notice dated 14 February 2022.
 - The development proposed is described on the application form as "Dropping of kerb to front of property".
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Decision

1. The appeal is dismissed.

Main issue

2. The site lies within the Tollesbury Conservation Area. The Council considered that the proposal would preserve the character and appearance of the conservation area. I find no reason to come to a different view.
3. The main issue is the effect of the proposed development on pedestrian safety.

Reasons

4. No. 59 is in a terrace of 5 houses (nos 57 to 65) on the northern side of East Street. The houses have short and narrow front gardens. The occupiers of the 2 end properties in the terrace utilize vehicular crossovers with dropped kerbs which provide access to a parking space in their respective front gardens. It is proposed to construct a dropped kerb, 3.5 m wide, to facilitate parking in the front garden of no. 59 which is already substantially covered by a hard surface.
 5. East Street is part of the main east-west route through the settlement of Tollesbury. The proposed vehicular access could be used several times a day each day. Vehicles would need to reverse into or out of the on-site parking area. There is likely to be pedestrian activity along the footway on the northern side of East Street given the proximity of the site to the services in the centre of the settlement and to Tollesbury School. The footway outside the site is rather narrow such that pedestrians would have little scope to manoeuvre safely away from an emerging vehicle. The telegraph pole next to the frontage of no. 61 is a further obstruction to pedestrians. Taking these factors into account, I judge that pedestrian visibility splays along the street edge would be necessary and
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appropriate in this case, even though the proposal is modest in scale and the vehicular manoeuvres to and from the property would take place at low speeds.

6. Essex County Council as the Highway Authority responded to the planning application by stating that as the proposed new access arrangements will be similar to the existing dropped kerb vehicle crossings at neighbouring properties on East Street, the impact of the proposal on highway safety would be acceptable subject to 2 conditions. The second recommended condition seeks 1.5 m x 1.5 m pedestrian visibility splays, as measured from and along the highway boundary, on both sides of the vehicular access, such visibility splays being retained free of any obstruction in perpetuity. However, the decision as to whether it is appropriate to impose such a condition is vested in Maldon District Council as the Local Planning Authority, in the first instance.
7. I consider that the District Council was correct to question the practicality of such a condition in the particular circumstances of this site. I noted on my site visit that the frontage of the site is actually about 3.6 m wide. Even if the site frontage was 4 m wide as annotated on the submitted plans, it would not be wide enough to achieve a clear space 1.5 m wide on each side of an access route for a vehicle without relying on neighbouring third party land outside of the appellant's control.
8. Moreover, it is normal that there must be no obstructions over 600 mm high above highway level in the pedestrian splay area. The Essex Design Guide is no different according to the District Council. There is already a thick privet hedge on the front boundary of no. 57 growing well above 600 mm high immediately adjacent to the appeal site's frontage. This hedge would fall in the splay area and obstruct pedestrian visibility in that direction. A similar obstruction could appear at the front of no. 61 at any time. It would be unreasonable to impose a condition that would effectively require control over the treatment of the frontages of the adjacent houses in which the appellant has no interest.
9. It has not been demonstrated that there would be the required pedestrian visibility splays. It would therefore be very difficult for drivers making an exit from the appeal property to safely see pedestrians approaching along the public footway on this side of East Street. In turn, pedestrians would not have sufficient warning of vehicles emerging from the property's driveway. The appeal scheme would not create a place that is safe or minimize the scope for conflicts between pedestrians and vehicles or respond to design standards. There would be an unacceptable impact on pedestrian safety.
10. There are other examples of vehicle crossovers along this section of East Street. I do not know how they came to be where they are and it should be noted that 3 out of the 5 properties in the same host terrace do not have them. I have looked at this case on its own merits and these other examples do not justify harmful development. I have no background information about the 3 planning permissions for vehicle crossovers cited by the appellant. They may well have been granted some time ago when less emphasis was placed on pedestrian safety. One of those planning permissions concerned 63 East Street but I noted that this property remains without a dropped kerb or crossover.

11. I acknowledge the appellant's wish to purchase an electric vehicle in the near future and have a convenient layout for the charging cables. I do not dismiss this benefit of the dropped kerb lightly but it does not provide justification for the creation of a situation that would result in hazards for pedestrians.
12. I find on the main issue that the adverse effect of the proposed development on pedestrian safety would place the scheme in conflict with the aims of Policies T2 and D1 of the Maldon District Approved Local Development Plan 2014-2029 which, amongst other things, seek to create and maintain an accessible environment and achieve safe and secure vehicle parking. These policies are not inconsistent with the National Planning Policy Framework.
13. My finding on the main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations.
14. For the reasons given above and taking into account all other matters raised and the recommendation of approval from Tollesbury Parish Council, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR