

Appeal Decision

Site visit made on 12 July 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 September 2022

Appeal Ref: APP/C3105/W/21/3282278

15 Heath Close, Milcombe, Banbury, Oxfordshire OX15 4RZ

- 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 Scott against the decision of Cherwell District Council.
 - The application Ref 21/02007/F, dated 7 June 2021, was refused by notice dated 11 August 2021.
 - The development proposed is extend dropped kerb and resurfacing of part of driveway with block paving.
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Decision

1. The appeal is allowed and planning permission is granted to extend dropped kerb and resurfacing of part of driveway with block paving at 15 Heath Close, Milcombe, Banbury, Oxfordshire OX15 4RZ in accordance with the terms of the application, Ref 21/02007/F, dated 7 June 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 following approved plans: Site location plan and photograph with measurements and details.

Preliminary Matters

2. There are discrepancies between the descriptions of development as identified on the application form, decision notice and appeal form, and the proposals shown on the submitted plans. For accuracy and certainty, the description of development has been changed to reflect the proposed development shown within the unreferenced plan, which for the purposes of this appeal is referred to as 'photograph with measurements and details'. The appellant and the Council had the opportunity to comment on my suggested description of development. No objections were raised. I have proceeded on that basis.
3. There is also a discrepancy between the submitted plans regarding the extent of the proposed increase to the dropped kerb. The appellant has confirmed that the proposed extension would involve the installation of two or three dropped kerb stones which would extend to the full width of the driveway, and one angled or dropper kerb beyond. This detail corresponds with the submitted photograph with measurements and details. I have therefore determined the appeal on this basis of the details contained within the submitted photograph with measurements and details. The block plan does not reflect the extent of

the development proposal, and it does not therefore form one of the approved plans.

Main Issue

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

Reasons

5. The appeal site comprises a detached dwelling within a cul-de-sac which is not subject of any on-street parking restrictions. Within the appeal site and to the front of the house is an area of hardstanding which is used for car parking. From a photograph within the officer report, the appellants representations, and my own observations, the hardstanding can and has been used to accommodate three parked cars. There is no proposal as part of this appeal to enlarge the driveway or to increase the amount of hardstanding capable of accommodating parking within the site.
6. Access to 2 of the existing onsite parking spaces is via a dropped kerb. The proposed enlargement of the dropped kerb would enable access to more of the hardstanding without requiring the driver to mount a section of raised kerb. The development would therefore allow the driver to maintain better control of their vehicle whilst accessing the hardstanding, thereby improving the highway safety of the manoeuvre.
7. There is potential for vehicles parked within the site to overhang the pavement. This is the currently for the whole of the parking area. Improving the safety and convenience of the access to the whole of this area may increase the frequency of the use of it. However, the pavement to the front of the site is not narrow, and it has not been satisfactorily demonstrated that cars parked within the site have or would prevent safe pedestrian egress along the pavement.
8. There are no trees or street furniture adjacent to the proposed dropped kerb which would limit visibility for vehicle or pedestrian traffic in the vicinity of the site. Although there is a hedgerow within the appeal site, no compelling evidence has been provided to show that there is an existing risk to highway safety in the general vicinity, or that there would be a reduction in highway safety if planning permission is granted. From my observations on site, sufficient visibility would be retained so pedestrians and road users would be able to see cars on the site and vice versa
9. The implementation of the proposed development would improve highway safety within the area. This improvement outweighs the limited harm caused by a reduction to the accessibility of the front door of the house as a result of any intensification of use of the parking area.
10. The appeal proposal would not therefore have an unacceptable effect on highway safety. Accordingly, and in this respect, I find no conflict with the requirements of Policy ESD 15 of the Cherwell Local Plan¹ which requires amongst other things, that new development be designed to deliver high quality safe places to live in, and to create places which promote pedestrian movement and integrate different modes of transport, parking and servicing. Nor does it conflict with paragraphs 110, 111 or 112 of the Framework, which advise that development should provide safe and suitable access to the site for

¹ The Cherwell Local Plan 2011-2031 Part 1

all users, minimising the scope for conflicts between pedestrians, cyclists and vehicles, and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

11. The comparative merits of parking within the highway and within the appeal site do not alter my finding that this scheme is acceptable.
12. Whether any separate agreements under the Highways Act are required are not part of my consideration of the planning merits of this appeal.

Conditions

13. For clarity, the statutory conditions which specify the time period for the implementation of the permission and identify the plans to which the permission relates, are imposed. The submitted block plan does not correspond with the proposed development as shown on either the photograph with measurements and details or as described by the appellant, however. As such the wording of the 'plans' condition has been altered to remove any conflict between plans and to create certainty in what is being approved. No parties would be prejudiced by this alteration.
14. A condition has been requested which would require the submission and approval of a scheme showing details of the layout, surfacing and drainage of the driveway. A further condition is requested to ensure that the parking area be kept free of obstructions and only used for the specified purpose. The formation of the existing driveway does not form part of the proposed development, and as such these conditions are not deemed to be necessary or relevant to the development to be permitted.

Conclusion

15. For the reasons given above and having regard to the development plan as a whole and other relevant material considerations, I conclude that the appeal should be allowed.

V Simpson

INSPECTOR