
Appeal Decision

Site visit made on 6 September 2022

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 September 2022

Appeal Ref: APP/J0405/W/22/3292191

16 Oakfield Road, Aylesbury HP20 1LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr David Rayner against Buckinghamshire Council.
 - The application Ref: 21/03844/APP, is dated 28 September 2021.
 - The development proposed is a new drop kerb with off-road parking.
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Decision

1. The appeal is dismissed and planning permission for a new drop kerb with off-road parking is refused.

Main Issues

2. The main issues relevant to this appeal are:
 - the effect of the development upon highway safety; and
 - the effect of the development upon trees.

Reasons

Highway safety

3. The appeal site consists of a dwelling set back from the highway. The surrounding properties are predominantly in use for residential accommodation. The appeal site and relatively few of the neighbouring dwellings feature off street car parking to the front of the respective dwelling.
4. The proposed development would create a new driveway. Therefore, there would be an increase in vehicle movements to and from the appeal site. This would have a relatively narrow width. This means that, for some vehicles, it might not be possible to turn around with the confines of the driveway. Although it might be possible to turn a smaller vehicle around, it would result in a convoluted and complicated manoeuvre.
5. This is likely to result in an inconvenient manoeuvre and therefore the driver of a vehicle looking to enter or leave the site would, most likely, need to reverse onto or off of the appeal site. If the driver were to reverse onto the highway, there would be reduced visibility of approaching vehicles and pedestrians. This would result in an erosion of the overall level of highway safety.
6. Alternatively, a driver may elect to stop the vehicle in the highway before reversing onto the appeal site. This means that such vehicles would need to

- stop and, potentially, reverse across a lane of approaching vehicles depending on the direction of travel.
7. Should these manoeuvres occur, there is a notable likelihood that highway safety would be eroded. This is a particular concern given that the level of traffic that currently uses the road. In result, the development has the likelihood of causing conflict with other road users due to sudden deviations in speed and direction.
 8. The appeal site is near to a mature tree. Of particular note, the tree has a wide trunk. This means that for some approaching motorists, views of the proposed driveway would be obscured. In result, approaching drivers would not be able to view a vehicle looking to join the highway. This is likely to result in an increase in the risk of collisions. Although there are commercial facilities in the vicinity, their entrances have a greater amount of visibility and therefore do not overcome my previous concerns.
 9. In addition, views for motorists looking to access the appeal site would not have complete forward visibility of pedestrians on the pavement. In result, there is a notable potential for conflict between the movement of pedestrians and motorists.
 10. I note that one of the nearby properties features a driveway and a dropped kerb onto the highway. I do not have the full information regarding the planning circumstances of this, which lessens the weight that I can attribute to it. Nonetheless, I note that this is located in an area that is further away from the mature trees that are a feature of the surrounding area. Therefore, the existing development does not have the same adverse effects as the proposed development would have. In result, the presence of the existing driveway does not overcome my previous concerns.
 11. There are dropped kerbs in the nearby A41. However, this road does not have the same number of mature trees as Oakfield Road. In consequence, there is a greater amount of visibility. Therefore, this does not allow me to forego my previous observations.
 12. In addition, the proposed development would operate in conjunction with other activities in the surrounding area. Therefore, the proposed development would result in a greater number of people joining or leaving the highway. This means that, in conjunction with other developments, the proposal would result in an erosion of highway safety.
 13. I therefore consider the proposed development would have an adverse effect on highway safety. The development, in this regard, would conflict with the requirements of Policy T4 of the Vale of Aylesbury Local Plan (2021) (the Local Plan) and Buckinghamshire's Local Transport Plan. Amongst other matters, these seek to ensure that the transport network can accommodate an increase in travel demand; and that safe access is provided.

Effect on trees

14. The appeal site is near to a mature tree, which would be sited close to the positioning of the proposed development, including the driveway. This would result in an increase in the overall level of hard standing in close proximity to the mature tree. The area in front of the appellant's dwelling contains a grass verge and a pavement.

15. By reason of the development, it is likely that the proposed development would result in the carrying out of ground works in the vicinity of the tree. This means that the proposed development would potentially result in the severing of some of the tree's routes.
16. Owing to the need to dig and install footings for the driveway in close proximity to the mature tree, the proposed development would have the potential to reduce the amount of moisture that could be absorbed by the roots of the existing tree. This would be a concern as, if such matters were to occur, the health of the tree would potentially be eroded and would raise concerns regarding the potential health or longevity of the tree.
17. In particular, if such a scenario were to occur, the proportions of the tree might diminish due to ill health or, potentially, its removal might be required.
18. This is a concern as the tree closest to the appeal site forms part of a longer line of mature trees close to the highway. Therefore, the loss of this tree would result in an erosion of the verdant character that is a feature of the appeal site's surroundings. This is particularly noteworthy due to the more suburban character that is a feature of the appeal site's vicinity.
19. In result, an adverse effect upon the tree would create a less verdant character. Therefore, an adverse effect upon the health of the tree would lead to an erosion of the area's character.
20. This would be a concern given the prominence of the appeal site and the mature tree. The tree is viewable from a notable distance away from the appeal site. Therefore, the loss of the tree would be particularly noteworthy and prominent. This would amount to harm arising from the removal of the tree.
21. The mature tree is near to a pavement. Whilst this features a hard surface, it means that the proposed development would result in a reduction in the overall level of permeable surfaces in the vicinity. This means that the development would result in a reduction in the overall level of moisture that the tree would be able to draw from. Therefore, the presence of the pavement does not overcome my concerns.
22. I therefore conclude that the proposed development would have an adverse effect upon trees. The development, in this regard, would conflict with the requirements of Policies BE2 and NE8 of the Local Plan. Amongst other matters, these seek to ensure that developments respect and complement the natural qualities and features of the area; and enhance and expand tree and woodland resources.

Other Matters

23. I understand that one of the reasons why the appellant seeks planning permission for the proposed development is to provide an electric car charging point. Whilst this is a matter of note, the benefits arising from this are relatively small given that there is not a mechanism before me that might require the future occupiers of the dwelling to have such a car. Therefore, there is a reasonable prospect that a future occupier of the dwelling might not have such a car.

24. This reduces the overall level of benefit arising from the proposed development. In consequence, this does not overcome my findings in respect of the main issues.
25. I have carefully considered the reasons why the appellant has applied for planning permission for the development. Given the nature of the information before me, as part of the appeal documentation, it would not be appropriate for me to outline the specific reasons why planning permission was applied for. Nonetheless, I have no doubt that the development would result in improved conditions for the appellant's family. These are personal circumstances to which I attribute weight in favour of the appeal.
26. In weighing the personal circumstances in the planning balance, this must be considered against the very significant adverse effect that the proposal has on trees and highway safety.
27. I have had due regard to the Public Sector Equality Duty contained in Section 149 of the Equality Act 2010, which specifies the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
28. In respect of the above, a refusal of planning permission is a proportionate, and necessary approach to the legitimate aim of ensuring that trees and highway safety are maintained. Therefore, whilst I acknowledge the personal circumstances of the appellant's family, I conclude that this is not a matter that outweighs the harm that would be caused by the proposed development in respect of my previous conclusions on the other main issues.
29. Concerns regarding the manner in which the planning application was considered by the Council fall outside the scope of this decision.

Conclusion

30. The proposed development would have an adverse effect upon highway safety and trees. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed, and planning permission refused.

Benjamin Clarke

INSPECTOR