
Appeal Decision

Site visit made on 27 September 2022

by H Lock BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th October 2022

Appeal Ref: APP/A1530/D/22/3302053

292 Old Heath Road, Colchester, Essex, CO2 8BW

- 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 Simon Hills against the decision of Colchester Borough Council.
 - The application Ref. 220325, dated 7 February 2022, was refused by notice dated 7 June 2022.
 - The development proposed is four dropped curbs to the driveway with two half drop/sloped and the driveway to be made from the front garden.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form a different wording has been entered, but as the parties have not provided written confirmation that a revised description of development has been agreed I have used the one given on the original application.
3. Since the application was refused, the Council has adopted the Colchester Borough Local Plan 2017 – 2033 Section 2 (adopted in July 2022) [LP2]. As such, Development Plan Document Policies DP17 and DM19 have been superseded by LP2 Policies DM21 and DM22, and I have determined this appeal against the policies now in force. The appellant was invited to comment on the newly adopted policies and the comments made have been taken into account.
4. The Council's delegated report confirms that the works to the front garden could be constructed as 'Permitted Development', but I share the view that the proposed parking space is intrinsically linked to the proposed dropped kerb, and that the one would not occur without the other. The intention to create off-street parking is included in the description of the development, and as such I have considered it in my assessment of the appeal.

Main Issue

5. The main issue is the effect of the proposal on highway safety, with particular reference to pedestrians.

Reasons

6. The appeal property is an end-terrace house that sits elevated above the footway and carriageway of Old Heath Road, a reasonably wide but busy road. The property has a grassed front garden and retaining wall, with steps leading either side from the pavement; to one side, to a pathway between properties, and to the other, to steps into the house. There are no parking restrictions on the road outside the appeal site, and it was evident at the time of the site visit that roadside parking occurs in the vicinity.
7. The Council's approach to parking is set out in LP2 Policy DM22, and its adopted parking standards identify a preferred parking space size as 5.5m (or 6.0m for a parallel bay length) x 2.9m, with a minimum bay size of 5.0m x 2.5m to be used only in exceptional circumstances as determined by the local planning authority. Essex County Council as highway authority objected to the proposal, considering that there would be insufficient space in front of the dwelling for a vehicle to stand entirely clear of the footway.
8. The submitted plans give a dimensioned garden width as 5.4m, but this includes pathways and steps that would need to be kept free of vehicles for residents to access the front door to the appeal property and the walkway between buildings. With a maximum depth of 5.0m to the pavement, there would not be sufficient space available on the site frontage to accommodate a parking bay of the preferred size set out in the adopted standards.
9. The appellant has given measurements for some typical car sizes, but the Council's adopted bay standards have been designed to reflect modern vehicle sizes plus circulation space. Moreover, there is no planning control that could limit the size or type of vehicle that could park in the space once constructed, nor the position in which it is parked. Having considered the site constraints, I am not convinced that the proposal would allow for a vehicle to stand fully clear of the footway, and this could give rise to obstruction and hindrance for pedestrians. Although I accept that obstruction could be addressed by parking enforcement, spaces should be appropriate and safe by design.
10. I am mindful of the safety benefits of the proposal put forward by the appellant, including improved visibility for drivers, cyclists and pedestrians; reduced risk of children running into the road between vehicles; reduced risk of doors opening onto cyclists and pedestrians; and safer unloading of vehicles and occupants on a driveway. However, on the evidence provided, I do not consider that these would be exceptional circumstances that would justify allowing a bay size of the minimum rather than preferred depth set out in the Council's standards, as this would have the potential to create its own hazards.
11. The appeal site is in an area where on-street parking appears to be commonplace, and the loss of one space in isolation of a comprehensive change in parking patterns along Old Heath Road would not achieve the benefits for drivers and cyclists to the degree suggested by the appellant. I am not convinced that removing one vehicle from the roadside of this wide road with reasonably good visibility would alter the risk of children running into the road between parked cars.
12. I acknowledge that recent changes to the Highway Code have introduced a hierarchy of road users, and this is reflected in LP2 Policy DM21, which amongst other criteria seeks to give priority to the movement of people

walking and cycling and to create safe, secure, convenient and attractive layouts which minimise conflicts between traffic, cyclists and pedestrians. There may be a risk at this site of car doors opening over the road or footway into the path of cyclists or pedestrians, but the Highway Code to which the appellant refers also provides guidance for cyclists to position themselves when passing parked vehicles to avoid such risks.

13. No evidence has been supplied of a particular issue along Old Heath Road, but I consider that the risks of injury from opening doors would be less likely than from a more regularly overhanging vehicle projecting into the footway. When briefly opening a door, the driver and/or passenger would be able to see and avoid potential conflict with cyclists and pedestrians. In contrast, an overhanging vehicle on the path could pose an undue risk to visually impaired or less mobile pedestrians, or those with pushchairs, when the driver is not around to prevent the obstruction.
14. I can appreciate the benefits for family members accessing a vehicle on a driveway rather than via the road, but loading/disembarking could take place onto the footpath rather than road, with the driver available to close the door to avoid approaching pedestrians. I am not satisfied that the limited circulation space available on site would provide better accessibility for visitors with mobility issues and others. Benefits to the occupants must be balanced against the wider safety implications of allowing substandard parking.
15. The appellant has drawn attention to other vehicular accesses and parking spaces in the area, noting that none appear to be deeper than the appeal frontage. However, the Council's delegated report indicates that for those granted in the vicinity in the last 10 years, the vehicle parking depth met adopted standards. In the absence of any details of permissions granted for smaller spaces, there is no justification to permit substandard parking which would not meet current highway safety standards.
16. I appreciate the appellant's concern that in the future only electric vehicles will be sold, but that it will not be possible to charge a vehicle at the site without a driveway. However, LP2 Policy DM21 seeks charging facilities for electric vehicles "where appropriate". There are dwellings without options for on-site parking throughout the country, and also increasing numbers of public and workplace charging points. Whilst on-site electric vehicle charging may be more convenient, and would bring environmental benefits, to facilitate this would be at the expense of pedestrian safety. I do not consider this to be a compelling argument to justify the proposal given alternative charging options available.
17. I therefore conclude that the proposal would have the potential to result in obstruction of the footway, to the detriment of the safety of pedestrians, and would not be outweighed by the suggested benefits. This would be contrary to the highway safety aims set out at paragraphs 111 and 112 of the National Planning Policy Framework, and LP2 Policies DM21 and DM22 and the Council's adopted parking standards.
18. For the above reasons, I conclude that this appeal should be dismissed.

H Lock

INSPECTOR