



Appeal Decision

Site visit made on 7 November 2022

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 8 December 2022

Appeal Ref: APP/Q5300/D/22/3304099
307 Church Street, London N9 9HZ

- 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 Xenios Johnson against the decision of Enfield Council.
 - The application Ref 22/01025/HOU, dated 22 March 2022, was refused by notice dated 18 May 2022.
 - The development proposed is vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the description of the proposed development from the Council's Decision Notice which provides more detail as to the elements requiring planning consent. It is noted that this description is also included on the appellant's appeal form.

Main Issue

3. The main issues are the effect of the proposed development upon:
 - Highway Safety; and
 - Surface water runoff to the public highway.

Reasons

Highway Safety

4. In the Decision Notice, the Revised Technical Standards for Footway Crossovers (excluding Heavy Duty Crossovers) 2013 (TSFC) is mentioned as part of the reason for refusal. The TSFC would not appear to be a planning policy associated with the Council's Development Plan, but a policy utilised by the Highways Authority for the technical considerations involved with the construction, layout and acceptability of vehicular crossovers. The information presented in the TSFC is relevant to planning and provides further direction on the Council's consideration with regards to vehicular access and crossovers. That said, I will consider the VCP as a material consideration to the determination of this scheme.
5. I appreciate that the road conditions I experienced on my site visit was only a snapshot of the road at this particular time, however I have also considered the evidence submitted by both main parties, and in light of this, I am satisfied that what I saw represents typical conditions.

6. Church Street is a single carriageway in each direction and provides an alternative route for vehicles to the A10 between Edmonton and Enfield. Whilst carrying more vehicles than the surrounding residential streets and cul-de-sacs, Church Street is a classified B-road with a low speed limit of 20 miles per hour. The road at the appeal site is relatively straight with the road beginning to curve towards a mini round-a-bout. The road contains street lighting and wide pedestrian footpaths, which provide some refuge for vehicles entering and exiting the road.
7. I saw parked vehicles along the road which does inhibit visibility entering and exiting driveways to dwellings and means that some cars need to queue in the middle of the road whilst waiting to proceed through the round-a-bout. I note comments in the applicant's SoC with regards to the lack of formal accident records for the street, however the absence of formal accident data does not in itself mean that accidents have not occurred, near misses, or indeed that a carriageway is 'safe.' Based on what I saw on my site visit I deduce that despite its deficiencies, Church Street operates satisfactorily without any significant safety issues.
8. With regards to classified roads, the Enfield Development Management Document (DMD) Policy 46 states that planning permission for new access will not normally be permitted on 'A' Roads and other busy classified roads, alongside a number of considerations regarding layout, manoeuvrability and impact to take into account. The TSFC also supports the policy and provides additional guidance, with key considerations around maintaining the free flow of traffic, safety for pedestrians, whether there are alternative means of parking, amongst others. Additionally, Policies 24 and 30 of the Enfield Core Strategy (CS) seeks that developments maintain and improve the quality of the built environment, which includes promoting safe, accessible, inclusive and sustainable neighbourhoods.
9. The front of the appeal site is quite wide which would allow some visibility for users of the proposed access to, however this would be more difficult if reversing onto the road. The space available in the front garden of the appeal property is not large enough for a vehicle to turn and exit in a forward gear, with the driver either needing to reverse onto the road, or utilise the pedestrian footpath to turn and enter the carriageway. Both of these scenarios are problematic, particularly to the free flow of traffic on this classified road, and to pedestrian's safety whilst utilising the footpath, which would not comply with sections d) or f) of DMD Policy 46. Additionally, DMD Policy 46 g) seeks a consideration of alternatives, such as whether the site could be accessed from the side or rear of the property. As noted in the Council's Officer Report, a vehicular access is available to the rear of the appeal site which allows access to a garage. Taking this into account, I would agree that there appears to be sufficient alternative access to not warrant a further access to be made to the property.
10. The Appellant in their Personal Statement which supports the Statement of Case mentions that the dropped kerb is necessary to enable easier access as they have a blue badge. Whilst no evidence has been submitted with the appeal, I am willing to consider the needs of the appellant as a material consideration, particularly as I recognise that the failure of this appeal needs to consider the appellant's rights under Article 14 of the European Convention on

Human Rights or Human Rights, as incorporated by the Human Rights Act 1998.

11. However, having regard to the legitimate and well-established planning policy aims to protect the safety of pedestrians and road users, in this case I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the Appellant. Moreover, I feel that there are adequate alternatives present which do not appear to have been considered.
12. I also note comments with regards to benefits of the proposal as it would allow an electric vehicle charging point. Whilst this would present environmental benefits, there may also be suitable alternatives, such as placing a charging point to the rear of the property via the rear access. Taking this into account, the benefits provided to the environment as a result of a charging point would not outweigh the harm caused to the free flow of traffic and pedestrian safety as a result of this proposed development. Moreover, the development would cause detriment to highway safety and free flow of traffic and there is nothing before me to suggest that alternatives have been considered.
13. The appellant's Statement of Case also mentions the presence of another dropped kerb opposite the appeal site. It is unclear when this dropped kerb was erected, or whether it benefits from planning consent. Either way, the presence of an existing development does not justify the harm caused by this proposed installation.
14. Taking the above into account, and in conclusion of this matter, the proposal would cause harm towards pedestrian safety and the free flow of traffic, and would be contrary to CS Policies 24 and 30 and DMD Policy 46, which is supported by the TSFC, as described above. I acknowledge and appreciate the comments from the applicant in their personal statement which accompanies the Statement of Case regarding their personal needs, their specific situation and justifications for the proposed dropped kerb which I have treated as a material consideration to this proposal. Having reviewed these personal circumstances, I feel that there may be other ways of accommodating the applicant's needs which may be more compliant with the policies of the development plan. As such the personal circumstances of the applicant in this case do not indicate that the decision should not be made in accordance with the policies of the development plan.

Surface water runoff to the public highway

15. The Council has concerns with regards to the lack of information that adequately demonstrates that the proposal is capable of preventing surface water runoff to the public highway. The Appellant has not submitted any additional detail, and has commented that such information could be suitably dealt with in a pre-commencement condition. Paragraph 54 of the National Planning Policy Framework states that 'Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions.' In this particular circumstance, a condition seeking these details would be suitable able to overcome this reason for refusal.

Conclusion

16. Taking the above into account, whilst I agree that the second reason for refusal could be dealt with via a condition, the proposal would not be appropriate in terms of highway safety and the free flow of traffic. As such, I conclude that the appeal be dismissed.

J Somers

INSPECTOR