
Appeal Decision

Site visit made on 29 November 2022

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 December 2022

Appeal Ref: APP/U1105/W/22/3301943

Stanzita, King Edward Road, Axminster, Devon EX13 5PP

- 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 Gerry Bird against the decision of East Devon District Council.
 - The application Ref 22/0262/FUL, dated 7 February 2022, was refused by notice dated 16 June 2022.
 - The development proposed is the creation of off road parking within existing 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. However, in Part E of the appeal form it is stated that the description of development has not changed albeit a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. During the consideration of the application and the appeal the appellant sought to amend the scheme, proposing amongst other things, to reduce the number of parking spaces to one. The Council considered the proposal with regard to parking occurring within most of the front garden. The appeal process should not be used to evolve a scheme, and it is important that the facts before me are essentially those considered by the Council and other parties. In the interests of openness and fairness the proper course of action would be to make a further application to ensure all interested parties, including nearby residents, were aware of all the relevant information. The Council dealt with the proposal on the basis of it being for parking spaces within the front garden rather than one parallel to the highway, and for the avoidance of doubt so shall I.

Main Issue

4. The main issue in this case is the effect of the proposal upon users of King Edward Road, having particular regard to safety.

Reasons

5. Stanzita is a semi-detached house positioned in a mostly residential area comprising a mix of ages and styles of dwellings. The appeal property is part of a short row of detached and semi-detached houses that are set back from the highway behind front gardens of similar depths. To the rear of the appeal property is a gravelled parking area providing space for two / three cars. The access to these spaces is from the narrow lane that provides vehicular access to the garages and rear gardens of the houses at King Edward Road, Alexandra Road and Musbury Road.
6. The size of the front garden would be sufficient to accommodate car parking spaces orientated perpendicular to the highway, but as there would be no opportunity for turning within the site drivers would either have to reverse in or out. King Edward Road is a busy A-road and such manoeuvres would be undertaken with a consequential hazard to other users of the highway. The presence of tall hedges and shrubs growing close to the footway in the front gardens either side of the appeal property would also reduce visibility when entering or leaving. Manoeuvring into the busy King Edward Road would, when combined with the limited visibility, put other users of the highway at risk, and this risk would include those using the footway as they would be concealed from view due to the shrubs and hedges.
7. There is local support for the scheme, and I saw at my site inspection that some of the nearby houses have parking provision within their front gardens. Several have no associated turning areas thereby necessitating drivers to reverse in or out of the spaces. However, the planning history of these properties is not before me to ascertain when and indeed if they have the benefit of planning permission. Notwithstanding this, not only is the road busy, but there are also two very sharp bends in close proximity of each other. It is the case that lorries and long vehicles in particular are in the middle of the road when negotiating the bends. In addition, on-street parking can occur along the southern side of the road. Given this context, drivers would be concentrating on negotiating the numerous complexities of this part of the road, and the presence of other vehicles reversing into or out of parking spaces would create an added distraction in an area where extreme care would be required from all users of the highway.
8. The Council considered a condition to restrict the use to a single space. As the size of the parking area would accommodate more than one space, a condition would not prevent the use of the site for more than a single vehicle. Such a condition would be difficult to enforce as it would require constant monitoring given the residential use of the spaces and likely frequency of movements, thereby failing to accord with the tests

for conditions cited within the National Planning Policy Framework (the Framework).

9. For these reasons, the proposal would have an unacceptable impact upon the local highway network, particularly with regard to the safety of other users of King Edward Road. This would be contrary to Strategy S6 and Policy TC7 of the East Devon Local Plan (2016) (LP), that seek amongst other things, that development should not be detrimental to the safe and satisfactory operation of the highway network and that it should not impair traffic flows, thereby reflecting objectives of the Framework.
10. The Council also referred to LP Strategy S3, which is concerned with the provision of sustainable development. This policy has a broad, strategic remit, rather than dealing specifically with highways safety matters, and as such it is the above referenced policies that are most relevant to the appeal.

Other Matters

11. The appellant has referred to having made an application for a dropped kerb, but the implementation of this permission, if received, would be a matter for the appellant and the relevant land owner to address.
12. Finally, the appellant's concerns regarding the Council's handling of the application, including the consideration of alternative proposals, relate to procedural matters and have no bearing on my consideration of the planning merits of the case.

Conclusion

13. For the above reasons the proposal would cause unacceptable harm to users of the local highway network, and the suggested conditions would not overcome this harm. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR