



Appeal Decision

Site visit made on 28 February 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 MARCH 2023

Appeal Ref: APP/T2405/W/22/3308037

Land to the rear of 51 High Street, Whetstone, LE8 6PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr W Downs against the decision of Blaby District Council.
 - The application Ref 22/0600/VAR, dated 10 June 2022, was refused by notice dated 19 August 2022.
 - The application sought planning permission for erection of 1 detached dwelling, associated parking and replacement parking for no.51 (including demolition of existing garage and outbuilding) without complying with conditions attached to planning permission Ref 17/0514/FUL, dated 31 May 2017.
 - The conditions in dispute are:
No.2 which states that: *'The Development hereby approved shall be built in strict accordance with the following approved plans:
Site Plans scale 1:500 160805/P1
Proposed Block Plan scale 1:200 160805/P2A Rev A
Floor Plans scale 1:50 160805/P3A
Elevations scale 1:100 160805/P4
Sections scale 1:50 160805/P5'*
No.6 which states that: *'Before the development hereby approved is occupied, the car parking spaces as shown on drawing number 160805/P2A rev A shall be so provided. The spaces shall not be obstructed and shall be maintained in perpetuity.'*
 - The reasons given for the conditions are:
No.2: *'For the avoidance of doubt.'*
 - No.6: *'To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.'*
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There is some variation in the address cited on the appeal documentation. Although the property constructed under this permission is called Maple House, I have used the address cited on the application form as this corresponds with the original decision notice. I have proceeded to determine this appeal on that basis.

Background and Main Issue

3. 51 High Street (No.51) is a 4-bedroom house, located facing High Street. Maple House has been constructed at the rear of this plot with access onto The

Sidings, a private road to the rear of houses located on the west side of High Street. Maple House has 3 parking spaces, together with 2 parking spaces alongside for No.51. The approved drawing 160805/P2A Rev.A illustrates the approved parking arrangements together with a pedestrian access linking the retained parking for No.51 with its rear garden.

4. The proposal seeks the variation of the conditions imposed on planning permission Ref.17/0514/FUL to remove the off-street parking for No.51 and instead to incorporate that area into the curtilage of Maple House. Accordingly, it proposes updated plan references in relation to Conditions No.2 and No.6 to allow the parking spaces identified on these plans to be used in association with Maple House only, and to remove the pedestrian access through to No.51. The consequence of the proposed change would be the loss of two parking spaces for No.51 and alternative parking would need to be found.
5. The main issue therefore is the effect of the reduced level of parking proposed on highway safety and the living conditions of the occupiers of No.51.

Reasons

6. Policy DM8 of the Blaby District Local Plan (Delivery) Development Plan Document (2019) (DPD) sets out that housing development will be required to provide an appropriate level of parking provision that complies with the Leicestershire Highway Design Guidance (HDG). This guidance sets out the factors to consider when determining parking provision, including the number of bedrooms, the location of the dwelling, and access to services and public transport. The HDG states that a 4 bedroomed dwelling in a suburban location should be designed with 3 off-street parking spaces. However, given the location of the dwelling, the Council considered that retaining just 2 spaces for No.51 would be sufficient when planning permission was granted. Therefore, the proposal to provide no off-street parking spaces for No.51 is contrary to the HDG.
7. I saw at my visit the range of parking available in the vicinity of No.51. Some long-term parking spaces were available with several spaces on Church Lane and one or two spaces on High Street. On High Street several vehicles parked for short periods of time with a noticeable changeover of vehicles. On Church Lane there was no movement of vehicles, but I noted that this lane is narrow with cars parked partly obstructing the pavement. In this regard it would be inappropriate to encourage long-term parking in this area. Spaces were also available at the free car park on High Street, but the time-limited parking would make it also unsuitable for long-term use.
8. I also observed the traffic flows in the immediate area and noted that with the combination of parked cars, numerous access points and speed humps, the traffic speed was moderated and there were no obvious congestion points. However, traffic was compressed within parts of the carriageway when manoeuvring around parked cars.
9. Despite my observations, and the evidence submitted, including the photographs of parking provided by both parties, in the absence of a more detailed parking survey I do not have adequate evidence to be sure that there would always be adequate parking provision for No.51, especially overnight when parking demand is likely to be at its highest given the residential nature of the area. I therefore cannot be certain that the displaced parking for No.51

could be accommodated within the immediate area without causing on-street parking problems and thereby impacting highway safety.

10. The appellant points out that the occupants of No.51 are already restricted to parking on the highway and that the impact is therefore already being experienced. However, I have no adequate evidence as to the car ownership details of No.51 or where they park, and this may well change in the future. Despite the dwelling's central position within the settlement, the occupants are still likely to have at least one car, reflecting the HDG, and adequate parking provision is still therefore required.
11. The Local Highway Authority (LHA) considered that the loss of the 2 car parking spaces would be unlikely to have a severe impact on the highway. This is in line with the National Planning Policy Framework (the Framework) which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Paragraph 111). However, whilst I recognise that the proposal would be unlikely to have a severe impact on the road network, the displacement of the parking would have a cumulative impact on the highway, putting pressure on parking capacity which is unpredictable in its location and availability. Based on the information before me I therefore cannot be certain that there would be no unacceptable impact on highway safety. I note also that the LHA consider that the loss of parking is generally not good practice.
12. Residents look for convenient parking whether that may be for longer term parking or for quick drop-offs. However, although they may choose to park near to their house for everyday use, a more distant space may be needed for a second car, when a vehicle is not used for a few days or when other parking is not available. Without dedicated parking there is no guarantee that on-street parking is available which is likely to cause anxiety for the occupants of No.51. There is also the risk of vehicle damage which is more likely on High Street where I have noted that in some places two-way traffic occupies a narrowed road width to pass parked cars, as well as vehicles manoeuvring to park.
13. Whilst the existing designated parking for No.51 is relatively remote from the dwelling, the evidence suggests that parking for No.51 has always been at the far end of this property. The passage alongside Maple House may also be unlit and not readily overlooked but this is a private residential area with no evidence of antisocial behaviour. Furthermore, there is no adequate evidence to show that these spaces would be unused if they were available or that they would not be maintained.
14. Adequate parking provision is an integral part of the design quality of all new developments and the HDG provides a framework to identify requirements. In granting permission for the new dwelling, the Council relaxed the parking standards for No.51 from 3 to 2 spaces, recognising the site's location within the settlement. This was the basis on which the planning permission was granted, and I have not seen adequate evidence to demonstrate why I should take an alternative view on this matter. Even in a town centre location the parking standards suggest provision of 1 parking space for a dwelling and this proposal would not even achieve that standard. The loss of the parking would therefore be detrimental to the living conditions of the occupants of No.51 and would represent poor design.

15. Some older dwellings on High Street have no off-street parking and the appeal site is noticeably different to dense terraced streets where significant parking pressures may occur. However, the planning approval identifies parking for No.51, and this is not a justifiable reason to allow a 4-bed dwelling to lose all parking and to generate a further parking demand elsewhere.
16. There is no doubt that the removal of the parking spaces for No.51 would improve the functionality of Maple House, providing space for visitor parking which may otherwise be difficult to find elsewhere, would limit noise disturbance and provide additional privacy around the dwelling. However, the provision of retained parking for No.51 was an essential part of the planning permission and the Council indicates that it would have refused it had a level of parking not been retained.
17. Taking the above factors into account, the reduced level of parking proposed would have a harmful effect on highway safety and on the living conditions of the occupiers of No.51. It would conflict with Policies CS2 of the Blaby District Local Plan (Core Strategy) Development Plan Document (2013), DPD Policies DM1 and DM8 and the HDG. These policies, amongst other things, require development proposals to ensure that the level of parking provision is justified by an assessment of the site's accessibility, meet highway design guidance and improves the design quality of all new developments. It would also conflict with the Framework which states that development should function well and add to the overall quality of the area.

Other Matters

18. Regardless of the private legal agreement related to the sale of No.51 to exclude parking, planning conditions and legal obligations are separate matters, and a private legal agreement does not override the need to adhere to planning conditions. Enforcing against a breach of condition is also not a matter relevant to this appeal.
19. The appellant has expressed concerns regarding informal advice that was provided to the appellant by the Council. However, this is a matter for the Council and has no bearing on my assessment of the planning merits of the case.

Conclusion

20. For the reasons given above and having regard to the development plan as a whole, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR