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# Appeal Decision

Site visit made on 8 February 2023

**by S Brook BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 March 2023**

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**Appeal Ref: APP/M4320/W/22/3308968**

**56 Mersey Road, Crosby L23 6SS**

- 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 Mrs Ann McLaughlin against the decision of Sefton Metropolitan Borough Council.
  - The application Ref DC/2022/00315, dated 21 February 2022, was refused by notice dated 22 April 2022.
  - The development proposed is construction of 2no. parking spaces with EV charging and associated access from Mersey Road.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for a partial award of costs was made by Mrs Ann McLaughlin against Sefton Metropolitan Borough Council. This application is the subject of a separate decision.

## Preliminary Matters

3. The appellant has added to the information they supplied with their application to the Council by way of additional drawings showing visibility and topography. This information provides further clarification for the proposal but does not amend the scheme itself. As such, I do not consider that any interested parties who may not have seen this additional information, would be prejudiced by my consideration of it. Therefore, I have taken it into account in my determination of this appeal.

## Main Issues

4. There are three main issues. These are the effect of the proposed development upon a) highway safety; (b) the living conditions of the occupiers of Nos 28 and 30 Mersey Road, with regard to noise and disturbance; and (c) telecommunications coverage.

## Reasons

### *Highway safety*

5. The appeal site is comprised of part of the frontage of a commercial garage, which presently accommodates cabinets and equipment associated with a nearby telecommunications mast. The garage sits at a lower ground level than the highway and so these cabinets and equipment sit on a raised gantry, which

is level with the road, and is enclosed by high fencing. Adjacent to the site and within the appellants' ownership are Nos 28 and 30 Mersey Road, which are used as 5 flats, with 2 off street parking spaces to the frontage. The appeal scheme would effectively extend this area of parking across the frontage of the garage, to create 4 spaces in total, accessed off Mersey Road. The appellant has clarified at the appeal stage that the parking bays and electric vehicle (EV) charging points would be for the use of tenants of these flats only, and not by the public or by tenants of the commercial garage.

6. Mersey Road is a main thoroughfare of Crosby, within a built-up urban area. At the time of my visit, I noted cars were parked on both sides of the highway, partly utilising the footpath, so as not to impede the flow of two-way traffic. There is no dispute between the main parties that this is a common occurrence. To the east of the appeal site, Mersey Road rises where it crosses a railway line.
7. The 2 additional parking spaces would be at 90 degrees to Mersey Road. Cars utilising these parking bays would be required to either reverse into or out of the spaces due to a lack of turning provision on site. Some manoeuvres into or out of the site could involve crossing both carriageways, potentially in reverse gear, depending on the original approach into the parking spaces and the direction of travel. When cars are parked along Mersey Road in the manner seen at my visit, visibility of approaching vehicles from the southwest would be significantly restricted for those attempting to exit these bays in either forward or reverse gear. For drivers approaching from the southwest, visibility of cars emerging from these parking spaces would also be restricted by parked cars. This lack of visibility would be harmful to highway safety.
8. There is some dispute between the parties as to the achievable visibility to the northeast. The road section drawing indicates 76m is achievable in this direction, over the brow of the hill, which exceeds the distance required by the Council of 43m. However, this section drawing is taken from the easternmost parking bay, which is shown at a higher ground level than the parking bay to the west. The achievable visibility from the westernmost parking bay is not illustrated. As such, I am not able to conclude whether an appropriate level of visibility is achieved to the northeast. Even if it were, a lack of visibility would remain to the southwest, and I would remain concerned as to the ability of drivers to exit the proposed parking bays in a safe manner, particularly if reversing, because of the additional manoeuvring time that would then be necessary within the carriageway itself.
9. I appreciate that there are 2 existing parking spaces at this location and I have not been presented with any information relating to accidents. However, not all accidents are recorded. Further, whilst the appellant highlights that the Highways Authority would have introduced measures to prevent or limit parking if it was considered to be unsafe, the Highways Officer has concluded that an increase in the number of parking bays at this location would be a concern. The addition of 2 further off-road parking spaces without turning facilities, would ultimately result in an increase in traffic movements over and above the existing situation, where visibility would be unacceptable.
10. I also appreciate that there are already cars manoeuvring nearby in order to park on the road itself, which may require the driver or passengers to exit the vehicle onto the carriageway. However, drivers on the carriageway would have

clear visibility of these vehicles manoeuvring and would respond accordingly, whereas the concern arising from the proposal is that intervisibility is restricted to an unacceptable level.

11. I accept that the parking bays would offer a safer environment for people getting into or out of the car, when compared to parking on the road itself. I also note the support provided by the Local Plan and the National Planning Policy Framework (NPPF) for schemes that enable charging of plug-in and other ultra-low emission vehicles, and the associated benefits of managing air quality and pollution. However, these must be within safe locations.
12. With regards to pedestrian safety, I am satisfied that adequate pedestrian visibility splays could be secured by the imposition of a suitable condition to control the height and position of any fencing adjacent to the proposed parking spaces. This would be necessary in addition to the suggested measures such as tactile paving. Nevertheless, for the reasons set out above, the proposal would not provide adequate vehicular intervisibility.
13. To conclude on this first main issue, the proposal would result in harm to highway safety. The proposal therefore conflicts with Policy EQ3 of A Local Plan for Sefton, adopted April 2017 (LP), which amongst other matters, requires that new development does not adversely affect the safety of all road users. Further, the development would not accord with paragraph 111 of the NPPF which seeks to ensure that new development does not have an unacceptable impact on highway safety.

#### *Living conditions*

14. The proposed parking bays and EV charging points are for use by residents of the adjacent flats only. Had I been minded to allow the appeal, this could have been secured by the imposition of an appropriate condition. The level of use by residents only and the associated activity would be typical of a residential use. Any noise or disturbance would be unlikely to be at a level that would be uncharacteristic of the area, where the predominant noise source results from road traffic and associated parking. The proposal would not give rise to any noise characteristics that would differ materially from those associated with the existing parking bays immediately to the front of the flats.
15. To conclude on this second main issue, the proposal would not result in harm to the living conditions of the occupiers of Nos 28 and 30 Mersey Road, with regard to noise and disturbance. The proposal therefore complies with LP Policy HC3 which requires, amongst other matters, that new development does not have an unacceptable impact on the living conditions of neighbouring properties. Further, the development would accord with paragraph 130 of the NPPF, which seeks to ensure that new development provides a high standard of amenity for existing users.

#### *Telecommunications coverage*

16. The appeal submissions indicate that the proposal would require removal of the ancillary infrastructure to a telecommunications mast, thereby impacting on the operation of the mast itself. The telecommunications operator advises that this would have a significant effect on network coverage and I have not been provided with any information to suggest that an alternative location for the

ancillary infrastructure has been found at this time, or for the installation in its entirety.

17. Paragraph 114 of the NPPF advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being, and that decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Paragraph 116 states that in decision making, Council's should have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
18. I have not been provided with any evidence to suggest that this is the only location for the telecommunications equipment and so the scale and duration of any impacts on coverage would depend on the ability to secure alternative arrangements. As the mast and ancillary equipment are located on the appellant's land, it remains the right of the landowner to remove the equipment, whether or not this appeal succeeds, subject to any private agreement between the parties. Indeed, the appellant confirms that steps are being taken to secure removal of the equipment, and that it is the intention to have the equipment removed, whether or not this appeal is allowed.
19. As such, whilst the proposal does have the potential to adversely impact on telecommunications coverage, it would appear to be the landowner's intention to secure removal of the equipment in any event. Therefore, having regard to the requirements of the NPPF to consider the potential for new development to interfere with broadcast and electronic communications services, any impacts of the proposal in this regard would be no greater than the landowners' stated intentions.

## **Conclusion**

20. Whilst the development would not result in harm to the living conditions of occupiers of Nos 28 and 30 Mersey Road, and there would be no greater impact on telecommunications coverage over and above the landowners' stated intentions, these are neutral matters and do not outweigh the unacceptable harm the development would have on highway safety. For these reasons, the appeal scheme would conflict with the development plan, and there are no other material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

*S Brook*

INSPECTOR