



Appeal Decision

Site visit made on 15 March 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 30th March 2023

Appeal Ref: APP/M1595/D/22/3312952

82 Gilbert Road, Chafford Hundred, Grays, RM16 6NJ

- 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 Cevdet Guven against the decision of Thurrock Borough Council.
 - The application Ref 22/00586/HHA, dated 27 April 2022, was refused by notice dated 6 October 2022.
 - The development proposed is a hardstanding to the front of the property (retrospective).
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Decision

1. The appeal is allowed and planning permission is granted for a hardstanding to the front of the property at 82 Gilbert Road, Chafford Hundred, Grays, RM16 6NJ, in accordance with the terms of the application, Ref 22/00586/HHA, dated 27 April 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The hardstanding hereby permitted shall not be used at any time for the parking of motor vehicles without the prior grant of express planning permission from the local planning authority;
 - 2) Within 2 months of the date of this decision a scheme of planting shall be submitted in writing to the local planning authority. That scheme shall include details of all plant materials to be planted and any containers that they may be planted in and the date by which the scheme shall be carried out. The scheme shall be carried out in complete accordance with the approved details and retained and maintained thereafter.

Main Issues

2. The main issues in this case are i) the effect of the development on highway safety; and ii) its visual impact.

Reasons

The effect of the development on highway safety

3. Gilbert Road is part of a wider housing development that was approved under the terms of application 85/00702/FUL/41. Conditions of that permission included a restriction on Permitted Development rights including Class F of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) which relates to hard surfacing. This

of course means that any development that would otherwise benefit from those rights must be the subject of a specific application to the local planning authority. Any subsequent refusal must be justified by reasons.

4. Gilbert Road is a little unusual in its length, much of which, including the part occupied by the appeal property, consists of culs-de-sac. The appeal site is situated on a bend of a spur the subdivides at the point of its flank elevation. Thus the front garden that has been block paved is situated just before the bend. The neighbouring house is linked to the appeal dwelling by its garage. That garage, which appears to be part of the original layout, is a little further away from the bend, and is provided with a dropped kerb crossing of the footpath. It appears that this dropped kerb, at least in part, is being used as a means of driving vehicles onto the appellant's paved area.
5. The highway authority objects to the development on the grounds that using the hardstanding would require an illegal crossing of the footpath which does not have a dropped kerb, and advises that a dropped kerb would not be found acceptable due to the proximity to the radius kerb within the highway on the grounds of safety. The provision of a dropped kerb is not part of the appeal before me. Thus, if I were to grant permission for the retention of the block paving, it would remain illegal to use the area for parking vehicles.
6. The appeal seeks planning permission for the retention of the hard standing. The application, on which the refusal of permission by the council was based, described the development, which had of course been carried out, in a long description of why and how the decision had been made to block pave the front garden, and the lack of knowledge that planning permission was necessary. The council, correctly in my opinion, abbreviated this to the description used on the refusal notice, which I use in the heading to this decision: 'hardstanding to the front of the property'. I point this out, since the proposal is therefore simply for the retention of the surfacing, and does not include the use of this area for the parking of vehicles.
7. Before coming to a conclusion on the highway issue, it is of note that I observed at my site visit that the original layout for the housing area includes a number of examples where garages are included, provided with dropped kerbs, where the cul-de-sac concerned has a curve immediately beyond the cross-over in a way that is not greatly different to the situation of the appeal site: I refer to the situation at Nos. 22, 54 and 130 Gilbert Road. I will draw my conclusion on this matter, after considering the second issue.

The visual impact.

8. The planning policy relating to this issue can be summed up in that element of the officer's report which states:
"The Residential Alterations & Extensions SPD (RAE) September 2017 states that:
5.7.1 Alterations to boundary structures and gardens at the front of a property (including the introduction of a parking space) should respect and enhance the character of the street and disturb the least (SIC) original walls, fences, railings, hedges and trees.
5.7.2 Front gardens should generally provide the maximum area of soft landscaping and sustainable urban drainage and the minimum of hard surfacing (particularly non-porous surfaces)".

9. The officer then, under the heading 'Design and amenity impact' continues in the following very balanced way:
"Within the immediate area, many dwellings benefit from hardstanding to their front gardens and it is not uncommon for dwellings to have extended their hardstanding to acquire additional parking space, due to restrictions that are in place limiting parking hours on the highway in Gilbert Road. A recent example is at No. 18 Gilbert Road which was granted Permission in 2022 (Ref. 22/00692/HHA)". and
"In line with the RAE guidance, it would be favourable for the front garden of properties to be retained as green space in the interests of providing soft landscaping. It is, however, accepted that there is a trade off between the desire to provide parking and the visual impact of such a development. Where the proposal would provide parking, it is considered that the visual impact can be found tolerable and as such, in principle, there would be no objection to providing such a large area of parking at the frontage of the site. However, as will be discussed below, the hardstanding cannot reasonably be used for parking purposes and in that context it is considered that the proposal represents a sea of unjustified hardstanding that is visually discouraged and not off-set by other benefits".
10. From what I have said in paragraph 6 above, it is clear that any planning permission as a result of this appeal will not be for a parking area. Thus the trade-off is not a material matter in this case. However, the previously grassed area, as shown in the photograph of the site before the development took place, did not add to the visual quality of the area, since it was largely bare soil. Quite clearly this could have been rectified, but the block paving has the advantage of being almost maintenance free. Had the hard surfacing been enlivened with some planting, possibly in pots, or by omitting an area of paving, the appeal site might well have been sufficiently attractive to overcome the officer's assessment that, on balance, the development should be refused. It could have been the case, for instance, that the length of vertical timber fencing around the curve of the highway could have been replaced with low-growing shrub planting.

Conclusions

11. My conclusion on the first issue is that the retention of the block paving with a condition that it should not be used for parked vehicles would overcome the highways objection. I appreciate that this would not serve the purpose that the appellant no doubt originally had in mind, but without a dropped kerb access to it, its use in that way would be illegal.
12. In coming to my conclusion on the second issue, I consider that the block paving could be made acceptable with a condition that required a planting scheme (which could include the use of planters) to be submitted to the council for approval, and which would be required to be carried out and then maintained thereafter.
13. I have decided to follow these conclusions and allow the appeal subject to conditions. In doing so I have not gone back to the appellant for comment because without these conditions the appeal would have been dismissed. The appellant will have the choice of accepting the conditions or being in the same position as if the appeal had been dismissed.

Conditions

14. I will therefore impose the conditions: the first is to ensure that the hardstanding will not be used for vehicle parking because without a dropped kerb that use would be illegal, the second condition, as I have indicated in paragraph 12 above, is for the reason that it is necessary to achieve a satisfactory appearance for the benefit of the character and appearance of the area.

Terrence Kemmann-Lane

INSPECTOR