



Appeal Decision

Site visit made on 2 June 2023

by N Perrins BSc (hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/L1765/D/23/3319277

37 Chilbolton Avenue, Winchester, Hampshire, SO22 5HE

- 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 & Dr S & M Kamal & Remer against the decision of Winchester City Council.
 - The application Ref: 22/02805/HOU, dated 16 December 2022, was refused by notice dated 10 February 2023.
 - The development proposed is the retrospective installation of gates.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice has presented the description of the appeal proposal slightly differently than that used on the planning application form. I have not seen any correspondence to confirm there was agreement to this change so have used the wording from the planning application form in this appeal decision.

Main Issues

3. The main issue is the effect of the development on highway safety.

Reasons

4. The appeal site is a large two-storey detached property set within a large plot with a parking area to the front. Access to the property is from Chilbolton Avenue, a 40mph road providing access to the city centre and beyond. The appeal site is set within an area with suburban character comprising similarly large two-storey detached dwellings and some blocks of flats all with access and parking areas off the main road.
5. The appeal proposal comprises dark grey electric gates around 1.8m in height and 5.42m in width sited at the front of the property adjacent to Chilbolton Avenue. The gates have been constructed. There is no dispute between the parties regarding the design and appearance of the gates, which I agree do not result in an unacceptable impact to the character of the area or residential amenity. The sole matter in dispute is therefore the effect of the development on highway safety by virtue of the positioning of the gates and the impact it would have on traffic conditions along Chilbolton Avenue.

6. At the time of my visit during a weekday afternoon, the road was busy albeit with traffic free flowing. I have no evidence before me that suggests the highway conditions I observed on my visit were abnormal.
7. Policy DM18 (iii) of the Winchester District Local Plan Part 2 – Development Management Policies and Site Allocations (adopted 2017) states that development will be permitted that makes provision for access to the site in accordance with any highway requirements on the grounds of safety, including the provision of gateways. The highway requirements that are, therefore, linked to Policy DM18 (iii) are set out in Hampshire County Council’s standing advice which clearly states that gates need to be set back 6 metres from the road to ensure cars leaving the highway do not create an obstruction to free flowing traffic. The appeal proposal is therefore in conflict with Policy DM18 (iii) of the development plan.
8. The appellant’s material considerations include providing evidence of existing gates at other properties along Chilbolton Road that, similarly to the appeal proposal, are set back around 3m from the highway. Other than photographs, no evidence has been provided on the planning history of these other gates and whether they have been subject of separate planning permissions. I did observe, however, and as demonstrated on the photographs that the other gates were open rather than closed and further information such as highway incidents along Chilbolton Avenue would need to be provided to determine whether they present an existing highway safety risk or not. I therefore, apply limited weight to the presence of other existing gates with similar setbacks from the highway in this appeal, which needs to be determined on its own merits.
9. The appellant has also highlighted that there is a pedestrian crossing within close proximity to the appeal proposal that in their view would have the effect of slowing down traffic down at the point cars would leave the highway to enter the appeal property. This may be the case but there is no information presented on how frequently the crossing is used and whether it has the effect of slowing the traffic down consistently to a level that would allow cars to leave the highway safely at all times. I therefore give the presence of the crossing only limited weight in this decision based on the information before me.
10. The appellant also highlights that there have been no highway incidents arising from the gates since they were installed and that the gates open remotely as the car approaches the property. No specific information, however, has been provided on how long it takes for the gates to open as a car approaches and that they will always be open before a car leaves the highway to access the property. I note from the plans that the gate is over 5m in width. Without information being available on how long it takes for the gates to open as a car approaches, there remains the potential for a car to be stationary for at least a period of time and be waiting across the pavement and some of the highway before it enters the site meaning a risk to highway safety cannot be ruled out. I therefore consider that the appeal proposal does have the potential for an obstruction to free flowing traffic that along with the numbers of cars that use the road and the 40mph speed limit increases the risk to highway safety that would otherwise be avoided if the setback met the highway requirements stipulated.

11. The appellant also sets out the gates are required to enhance the security of the property following a series of reported incidents as well as to provide a safe area for the appellant's children within a secure and enclosed space away from the busy road. Whilst important considerations, to which I am sympathetic, I give these points only limited weight in my assessment as the key issue remains the impact on highway safety, which I consider on the evidence before is adversely affected.
12. I note the appellant has highlighted that if the gates were 1 metre in height they could be installed as permitted development, which would have the same effect on highway safety than the appeal proposal. That may be the case but I do not consider that this provides a realistic fallback sufficiently material to overcome the harm I have identified to highway safety given that the appellant's stipulated security requirements at the property would result in a form of enclosure likely exceeding the provisions available through permitted development.
13. In conclusion and on the evidence presented before me, I consider that the proposal has an adverse impact on highway safety along Chilbolton Avenue and is not in accordance with Policy DM18 of the Winchester District Local Plan Part 2. I have carefully considered the material considerations presented and whilst sympathetic to them I do not consider they are sufficient to outweigh the harm to highway safety identified.

Conclusion

14. The proposal has an adverse impact on highway safety and the appeal is dismissed.

N Perrins

INSPECTOR