



Appeal Decision

Site visit made on 3 October 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2023

Appeal Ref: APP/Z1775/W/23/3320590

86C Lawrence Road, Southsea, Portsmouth PO5 1NZ

- 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 Ahmed against the decision of Portsmouth City Council.
 - The application Ref 22/01538/FUL, dated 1 November 2022, was refused by notice dated 23 December 2022.
 - The development proposed is the construction of a dropped kerb to create 1 No car parking space on forecourt (following demolition of existing boundary wall).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was updated on 5 September 2023. However, the sections pertinent to this appeal have not materially altered and so I will reference the revised version in my decision.

Main Issue

3. On visiting the appeal site, it is evident the frontage has been covered in hardstanding and the front boundary wall removed. The Council has commented that the removal of the wall would not require planning permission and there is nothing before me to conclude otherwise. It is however, appreciated that although the frontage is capable of parking a vehicle it is the dropped kerb which allows the frontage to be formally used for parking.
4. Therefore, the main issue is the effect of the proposed installation of the dropped kerb on highway safety.

Reasons

5. Lawrence Road is a residential road in a central location within Portsmouth. I observed during my early afternoon site visit that the road was busy both with vehicles and pedestrians. This aligns with the findings of the appellant's Highway Consultant who describes Lawrence Road as relatively busy¹. Most properties along the road are terraced and close to the road edge, so only have small frontages unable to provide off-road parking. However due to a curve in the highway from the junction with Darlington Road, 88 Lawrence Road, the appeal dwelling, 86B and 86C Lawrence Road are all stepped back from the previous property. This means that the appeal site and Nos 86B and 86C are all setback from the highway edge.

¹ Paragraph 5.3 of the Grounds of Appeal written by Nick Culhane Highway Consultant.

6. The proposed drop kerb would provide access to a singular off-road parking space. This like the drives at Nos 86B and 86C would require manoeuvring on the road to access or egress. However, the position of the appeal dwelling, setback behind the frontage of No 88, means that any vehicle seeking to reverse out of the appeal site would not be able to see oncoming traffic as views of the kerbside lane and pavement would be blocked by the side elevation of No 88. Therefore, any vehicle would have to reverse out over the footpath and into the road with very limited views of oncoming pedestrians and traffic. This would reduce any opportunity to gauge if it were clear to manoeuvre out of the site or cross in front of it, which would have a significantly detrimental impact on highway safety.
7. The appellant asserts that the familiarity of circumstances, limited traffic generated by the proposal and moderately lower traffic speeds than that posted would negate any potential harm to the safety of road users is not founded. However, the proximity of the proposal to the junction with Darlington Road and that drop kerbs and off-road parking is an exception rather than the rule along Lawrence Road; along with the well-used nature of the road and accident history, cumulatively presents a situation where those unfamiliar with the local area would not expect vehicles to be reversing out or manoeuvring in the road to park.
8. It is appreciated that Nos 86B and 86C have existing dropped kerbs and parking which is partially set back behind the frontage of adjacent properties, nevertheless suboptimal design elsewhere is not a justification for the continuance of such practice where highway safety may be impacted.
9. On review of appeal APP/Z1775/D/22/3302538 at 179 Tangiers Road, I am satisfied the circumstances are substantially different to those before me. Namely that No 179 is positioned on a straighter section of road and the frontages of the terrace it is part of are in line with each other.
10. Consequently, I find the proposal would fail to provide adequate intervisibility between users of the proposed parking space and road users which would have an unacceptable impact on highway safety. The proposal would therefore fail to comply with Policies PCS17 and PCS23 of the Portsmouth Plan insofar as they seek new development and parking to be well designed and safe. Paragraph 111 of the Framework also supports this position as it states, amongst other things, that development should only be refused on highways grounds if there would be unacceptable impact on highway safety.

Other Matters

11. It is noted that the appeal site is within the catchment area of a Special Protection Area. However, clause 63(1) of regulation 63 of the Conservation of Habitats and Species Regulations 2017 states that 'a competent authority, before deciding to undertake, or give any consent, permission... must make an appropriate assessment'. This is not, therefore, necessary where there is no intention to grant permission. As I am dismissing the appeal for other reasons, I am not required to pursue this matter further.
12. That the Council has not sought to enter communication with the appellant post the planning decision being issued is a matter between the appellant and Council. It does not impact the planning merits of the case.

Conclusion

13. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR