



Appeal Decision

Site visit made on 2 October 2023

by L Clark BA(HONS) DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/T5150/W/23/3317516

73A Ground Floor Flat, Central Road, Brent, Wembley HA0 2LQ

- 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 Akshaykumar Patel against the decision of the Council of the London Borough of Brent.
 - The application Ref 22/1574, dated 30 April 2022, was refused by notice dated 30 August 2022.
 - The development proposed is a dropped kerb for vehicle crossover.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on highway safety, with particular regards to layout and drainage.

Reasons

3. Central Road is a residential street fronted by two-storey dwellings set back from the pavement edge by frontages of varying lengths. On-street parking bays are marked along the route while a number of the property frontages feature dropped-kerb access and hardstanding to facilitate off-street parking.
4. No. 73 Central Road has been subdivided into two flats and features a projecting porch and canted bay window to its front elevation. The appeal site comprises the ground floor flat at No. 73 and the appeal scheme proposes to introduce a dropped kerb to facilitate the use of its frontage for off-street parking.
5. The existing plans do not accurately correspond to the appeal site as I saw it. Notably, these show the frontage area to partly comprise 'permeable paving', whereas what I saw appeared to be a finished, poured-concrete type flat surface. In respect of the 'soft landscaping', I observed this be contained behind a low walled flower bed that reaches approximately half-way in front of the front bay. I also saw a plastic-covered drainage channel running parallel with the pavement, up to the low wall of the flower bed, which is not shown on the proposed plans.
6. Policy DMP1 of the Brent Local Plan 2019-2041 (2022) (Local Plan) seeks, amongst other things, to ensure that development is satisfactory in terms of means of access for all, parking, and manoeuvring. Policy BT4 of the Local Plan indicates that forming an access onto a road would be acceptable where (criterion a) access would be safe having regard to the Council's cross over

guidance. This guidance is contained within the Council's Domestic Vehicle Footway Crossover Policy V4 (2021) (DVFC), which requires there be sufficient space within the curtilage of a site to ensure that a parked vehicle does not overhang the footway and that manoeuvring on and off the highway can be carried out safely.

7. In order to accommodate the average size vehicle, the DVFC indicates that a vehicle hardstanding should normally be at least 4.8 metres deep. Bearing in mind the enclosed front porch projection, the depth of the frontage area at the appeal site is well below 4.8 metres. Consequently, if an average-sized vehicle were to park at 90 degrees to Central Road, it would be highly likely to overhang the public footway.
8. In certain circumstances, the DVFC indicates that a frontage depth of less than 4.8 metres may be acceptable. This is provided that the parking area is an absolute minimum of 3.8 metres deep; and there is a willingness to enter into a legal agreement that restricts the size of vehicle that can be parked on the forecourt to fit within the available space. I note the appellant's commitment to enter into a legal agreement with the Council, however, there is no planning obligation before me and therefore no legal mechanism that would restrict the development or use of the land in any specified way. Crucially, the submitted plans indicate that the proposed off-street parking area would have a depth of 3789mm from the back of the footway up to the projecting porch, which falls short of the absolute minimum depth established within the DVFC. Even if a legal agreement were in place to restrict the size of vehicles being parked at the appeal site, the parking area would still be of insufficient depth to avoid overhanging and obstruction of the public footway.
9. Any such any overhanging and resulting in an obstruction over the public footway would impede the ease of movement for users of the footway and create a potential hazard. Such an obstruction would require users of the footway to move closer to the highway and moving vehicles, which would undermine the safety of the less mobile, those with prams, wheelchairs, or with visual impairment. Consequently, I consider that the proposed development would have an unacceptable impact on highway safety leading to conflict with Policies DMP1, BT4 and BSU14 of the Local Plan insofar as they seek to ensure development is satisfactory in terms of means of access for all and that pedestrian movement should not be impeded. The proposed development would also conflict with the National Planning Policy Framework, revised September 2023 insofar as it indicates the development should only be refused on highways grounds if there would be an unacceptable impact on highway safety; and seeks to ensure that development creates places that minimise the scope for conflicts between pedestrians and vehicles.
10. Policy BSU14 of the Local Plan establishes the proposals that would fail to make adequate provision for the control and reduction of surface water run-off will be refused. I understand from the appellant's statement that the extant drainage channel connects to a soakaway sited under the soft landscaping. The submitted plans also show the frontage to be already 'permeable paving' and this would remain as such under the proposals. Although the proposed plans submitted do not show any drainage channel, nor detail of how this connects to the 'soft landscape' contained within the raised flowerbed, the Council has indicated that concerns relating to soft landscaping and on-site drainage could be addressed using conditions. With appropriately worded conditions, I

consider that adequate provision could be made for the control and reduction of surface water run-off in accordance with Policy BSU14 of the Local Plan. However, a lack of harm in respect of drainage does not alter the harm I have identified in respect of the layout and highway safety.

11. I note the Council's comments in respect of the potential impact of the proposals on a nearby street tree. However, during my site visit, I saw no street tree directly outside the appeal premises and observed the nearest street tree to be on the opposite side of Central Road. Due to the size of the tree, the distance between the appeal site and the intervening hard surfacing, I consider it very unlikely that any trees would be harmfully impacted by the proposal. I therefore find no conflict with Policy BG12 of the Local Plan. A lack of harm in this regard, the support from a neighbour for the proposals and that there would be no conflict with Policy T6.1 of the London Plan, however, does not alter my overall conclusion.

Other matters

12. In support of their case, the appellant has drawn my attention examples of off-street parking elsewhere along Central Road. In the majority of the examples given, I did not observe enclosed front porches projecting into the frontage gardens, and so they are materially different to the situation at the appeal site. Furthermore, I have not been provided with details of the planning situation in those cases and so cannot be certain whether planning permission was required, nor the precise depth of their frontages. Therefore, even if Nos. 27, 75, 95, 115, 121 and 127 Central Road feature vehicular cross-overs, drainage channels and soft landscaping, or benefit from planning permission, I cannot be certain that the circumstances are directly comparable to the proposals before me, which I have assessed on their own merits.

Conclusion

13. For the reasons set out above, and having had regard to all other matters raised, I find that the proposed development conflicts with the development plan taken as a whole. There are no other considerations which indicate that the decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

L Clark

INSPECTOR