



Appeal Decision

Site visit made on 11 September 2023

by L C Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/C4615/W/23/3318398

192 Spies Lane, Dudley, Halesowen B62 9SP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Manni Chattha against Dudley Metropolitan Borough Council.
 - The application Ref P22/0682, is dated 8 May 2022.
 - The development proposed is new drop kerb to 192 Spies Lane.
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Decision

1. The appeal is dismissed and planning permission is refused for new drop kerb to No 192 Spies Lane (No 192).

Preliminary Matters

2. The Council did not formally determine the application. However, it requests that the appeal be dismissed and sets out a number of comments on the appeal scheme which I have taken into consideration in identifying the main issues below.

Main Issues

3. Having regard to the evidence and my site visit, the main issues are the effect of the proposed development on:
 - a) highway safety; and
 - b) the character and appearance of the area.

Reasons

Highway safety

4. No 192 has a parking area at the front of the property for three cars and a parking area to the rear for a further three cars. The spaces are accessed via an existing shared driveway, located between No 192 and No 194 Spies Lane, which is owned by a third party and serves a number of other neighbouring dwellings. The front boundary of the appeal property is defined by a mature hedge.
5. Spies Lane is a B Classified Road. The road carries through traffic and there is a bus route along it. There is a pedestrian footpath in front of the appeal property, with a grass verge separating this from the road. The proposed access would cross the grass verge and the footpath and would provide a dedicated access to the appeal property. The front hedge would be removed to facilitate visibility adjacent to the footpath.

6. There are a number of trees within the verge and the shared access is in close proximity to the proposed access position. There is also a reasonably significant change in levels between the front garden of the appeal property and the road. However, the road is relatively straight with good visibility for forward facing vehicles.
7. Nevertheless, even though the property is set back with existing parking to the road frontage, in its current arrangement vehicles can reverse out of the front area without the need to manoeuvre on the highway. There is little evidence before me to indicate that with the position of the new access vehicles would be able to manoeuvre to enter and leave the site in forward gear. Without such assurance I cannot be satisfied that reversing vehicles would have sufficient visibility of road users and pedestrians. Nor can I understand what effect the gradient would have on vehicles reversing on to the road.
8. Whilst I note that a visibility splay for the proposal has been submitted, from the submitted drawings I am not persuaded that the visibility splay could be adequately secured. It would appear that the visibility splay would extend across the neighbouring property's front garden. The hedge at the front of that property could impede visibility of pedestrians.
9. I note that other properties have frontage parking accessed off Spies Lane. However, I have no details as to the visibility splays that these properties were able to achieve, and it is not apparent if these sites are directly comparable with regard to land levels. My attention has been drawn to a permission for the conversion of a garage at the neighbouring property which the appellant claims results in a reduction in parking provision. However, I have little evidence to conclude that the loss of parking on an adjacent site would influence the safety of the proposed access arrangements.
10. Although the appellant is concerned about permission to alter or repair the existing access, I have been provided with little to suggest that the use of the shared drive would be restricted. Whilst I note that the proposed access would be slightly further away from the pedestrian crossing point, and that the appellant has reported that there have been very few accidents on Spies Lane in recent years, this does not outweigh my concerns about potential highway safety issues related to a proposed access.
11. In the absence of sufficient information I conclude that the proposed development would be detrimental to highway safety. The proposal would conflict with Policies L1 and S17 of the Dudley Borough Development Strategy 2017 (DS) which seek to ensure that development provides adequate access, parking and provision for the manoeuvring of vehicles, with no detrimental impact on highway safety and free flow of traffic, and makes adequate and safe provision for access and egress by vehicle users, cyclists, pedestrians and other road users.

Character and appearance

12. There are mature trees and verges along Spies Lane, which give a pleasant, verdant character to the street scene. The proposed development would lead to the loss of part of a grass verge, along with a section of the front boundary hedge. However, sections of grass verge would be maintained adjacent to the road either side of the access point. At my site visit I observed that there are

similar examples of drop kerbs within the street scene, and the proposed development would not appear incongruous in this context.

13. I conclude that the proposal would not detract from the character and appearance of the area. The proposal would accord with Policies ENV2 and ENV3 of the Black Country Core Strategy 2011, Policies S6, S8 and L1 of the DS, and guidance contained within the Residential Design Guide Supplementary Planning Document which, amongst other things, seek to ensure that development respects and is responsive to the context and character of the surrounding area. It would also be in accordance with the National Planning Policy Framework which seeks to ensure that development is sympathetic to local character.

Other Matters

14. I acknowledge the appellant's concerns regarding the health of his wife. I have kept this at the forefront of my mind. However, the existing parking arrangements currently provide access to the property, and there is limited evidence that the shared drive would not be available in the future. Further, I cannot be certain that the new access would itself be safe for the above reasons. As such, the appellant's personal circumstances do not override my highway safety concerns.

Conclusion

15. While I am satisfied that the proposed access would not detract from the character and appearance of the area, for the reasons that I have set out the proposal would conflict with the development plan when taken as a whole and there are no material considerations which would indicate a decision other than in accordance with it. For the reasons given above the appeal is dismissed.

L C Hughes