



Appeal Decision

Site visit made on 12 March 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2024

Appeal Ref: APP/W2845/W/23/3333884

**136 Boughton Green Road, Northampton, West Northamptonshire
NN2 7SR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Samantha Hughes against the decision of West Northamptonshire Council.
 - The application Ref is WNN/2023/0436.
 - The development proposed is a dropped kerb.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mrs Samantha Hughes against West Northamptonshire Council. This application will be the subject of a separate decision.

Procedural Matters

3. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal.

Main Issue

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

Reasons

5. Boughton Green Road is a busy thoroughfare connecting the A508 and the A5076. It is predominantly residential. The host dwelling is set back from the road by a front garden bounded by a brick wall of varying heights abutting the pavement. The pavement is separated from the road by a grass verge. Within the front garden, an area would be created for the parking of two vehicles side-by-side and a dropped kerb, with hardstanding across the grass verge, would adjoin the road. The majority of the front boundary wall would be demolished but a section between the existing pedestrian access and 138 Boughton Green Road would be retained.
6. The appellant concedes that the proposal could not achieve the required pedestrian visibility splays as they would intersect the front gardens of the neighbouring properties to either side and their boundary treatments. From the

information before me, I agree with this conclusion. Consequently, the proposal would harm the safety of pedestrians using the adjacent pavement.

7. The appellant asserts that the parking area would comprise permitted development under Class F, Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the 'GPDO') and the proposal is solely for the construction of a dropped kerb. However, I do not have a Certificate of Lawful Proposed Use or Development before me to demonstrate that the parking area would be permitted development. Furthermore, the site edged red encompasses both the works to the highway and the parking area, the submitted drawing includes the formation of an off-street parking area, and the planning application form states that two on-site parking spaces are proposed. Additionally, there would be no requirement for the dropped kerb if the off-street parking area was not created and therefore, they are intrinsically linked. Consequently, I must consider the development as a whole.
8. The dwellings to either side of the appeal site have off-street parking within their front gardens, accessed via a dropped kerb from the road and I witnessed other off-street parking areas and dropped kerbs along the road. The appellant asserts that it is commonplace for driveways to be adjacent to one another with a fence or wall of around one metre in height between them. However, I have not been provided with details regarding the planning history of these developments and therefore it is not known if planning permission was obtained or indeed required. In any event, each proposal must be determined on its own merits. Furthermore, while the proposal could have a similar relationship with the public highway as other vehicular accesses elsewhere along the road, this does not justify a substandard access.
9. The appellant asserts that there is conflict between the Local Highway Authority's standards for pedestrian visibility splays and what can be done under the GPDO to create driveways and erect gates, walls and fences adjacent to a highway. However, planning permission is sought for the proposal and therefore is subject to different considerations than developments that are permitted development. Furthermore, paragraph 3(6) of the GPDO states that permission granted by Schedule 2 does not authorise any development which requires or involves the formation, laying out or material widening of a means of access to an existing highway which is a trunk road or a classified road, or creates an obstruction to the view of persons using any highway used by vehicular traffic, so as to be likely to cause danger to such persons. Consequently, even if a proposal complied with the limitations of a particular Class within the GPDO, paragraph 3(6) takes precedence.
10. Planning permission¹ was previously granted for the construction of an access and garage to serve the appeal site. However, the information before me suggests it was approved in the 1970s and that it was not commenced. Furthermore, there have been material changes in planning policy and guidance since the planning permission was granted. Consequently, I attribute it limited weight. While the Local Highway Authority's Standing Advice² may not have gone through a consultation process, I have not been made aware of any requirement for it to do so. Furthermore, there is no substantive evidence

¹ Planning Ref 76/0319

² Northamptonshire County Council Local Highway Authority Standing Advice for Planning Authorities, Domestic Vehicle Accesses Serving 1 to 5 Dwellings and Advertisement Applications, June 2016

before me that the advice does not take proper account of the relevant technical considerations or has been incorrectly applied in this case.

11. I have been directed to an appeal³ that was allowed for a dropped kerb onto a busy thoroughfare. However, the main issue was the highway safety implications of vehicles waiting on the highway causing an obstruction and therefore, it is not directly applicable to the appeal proposal.
12. In reference to the main issue, the proposal would have an adverse effect on highway safety. It would conflict with Policy MO2 of the Northampton Local Plan Part 2 2011-2029, adopted 2023 ('LP') which, amongst other things, seeks to permit development proposals provided there would be no unacceptable impacts on highway safety and are designed to allow safe and suitable means of access. It would comply with the Framework's requirement that developments can be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, and it would conflict with the Framework's requirement that a safe and suitable access to a site is achieved for all users.
13. The Council's reason for refusal also references LP Policy MO4. However, this is in respect of parking standards and the information before me does not suggest that the Council has raised an issue with the proposal in this regard. It is therefore not applicable to the proposed development.

Other Matters

14. The Council has expanded on their reason for refusal to include the effect of the dropped kerb on vehicles stopping on the highway to turn into the proposed driveway. As I have already found that the development would harm highway safety, I do not need to consider this matter further.

Conclusion

15. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR

³ Appeal Ref APP/G2815/D/21/3279386