



Appeal Decision

Site visit made on 13 May 2024

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/P4605/D/24/3341424

167 Rectory Road, Sutton Trinity, Sutton Coldfield, B75 7RU

- 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 Ms Prem Dance against the decision of Birmingham City Council.
 - The application Ref 2023/07434/PA, dated 1 November 2023, was refused by notice dated 2 January 2024.
 - The development proposed is described as 'Retain and modify an existing dropped kerb'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on highway safety, in terms of the loss of on-street parking and in terms of visibility.

Reasons

3. Rectory Road is a long classified road, linking the town centre to routes to the M6, passing the Good Hope Hospital and through a mainly residential suburban area. On the opposite side of the road a short distance from the appeal site is a public house and a local convenience store that has a number of forecourt parking spaces for customers. There are bus stops some 160m west of the site and some 115m east of the appeal site.
4. The property is a mid-terrace dwelling that has a shared, single track access drive to the side of the terrace which has shared parking and garages to the rear of the terrace. The appellant currently rents a space from her neighbour. The dwelling has a long front garden in which a full width drive of some 3.8m in width which widens to 5.5m and a depth of 9m, has already been constructed in the part of the garden closest to the footway together with a dropped kerb of some 1m in length.
5. The appeal site lies on a slight incline on the northern side of the road within a section of road that has a number of on-street parking spaces parallel to the footway on this side and double yellow line parking restrictions on the opposite side. There are verges and footways along both sides of the road. To the south of the shared access those parking spaces are in two shorter sections with a longer section of spaces to the north of the shared access, extending across the existing unauthorised dropped kerb. There is capacity for 11

- vehicles according to the appellant that are restricted to a 1 hour stay between 8am – 6pm Monday to Friday with no return within 1 hour.
6. A similar scheme was refused by the Council for the same reasons (2023/01908/PA) as the current proposal. This now includes some amendments that would reduce the width of the drive to 2.75m (with margins) and would increase the dropped kerb length to 2m, replacing the area of existing on-street parking bays with an 'H'-bar carriageway marking to indicate that access to the driveway is needed. It would result in the loss of two on-street parking spaces according to the appellant or at least two to three according to the Council's Transportation Officer.
 7. At my visit during the middle of a weekday morning, I noted that this is a busy road with a steady flow of traffic including regular local and longer distance buses and much pedestrian activity. The appellant's survey evidence indicates that in a one week period in September, the average use of the on-street parking spaces ranged from 0-8 cars with only one 30 minute period in which all spaces were occupied (which included some construction vehicles) and that some vehicles exceeded the 1 hour limit. However, the demand for spaces at peak times is likely to exceed that average and during the course of my visit I noted that between 8 and 10 of the spaces were occupied at any one time as were many of the bays in the forecourt of the pub and shop. Whilst greater enforcement may increase capacity, it would be unjust if this private development led to the need for greater public expenditure. The loss of two spaces would not be acceptable in this context because it would be likely to lead to parking elsewhere in unsuitable locations on the street that would result in a danger to highway safety.
 8. There are no other individual accesses to this terrace of six dwellings. Whilst there is some difference in ground levels as the land rises to the east, from what I have seen that difference would be unlikely to deter future similar applications. If this appeal is allowed, the Council would find it difficult to resist those because even though developments are considered on their merits, they would be located within the same section of road. The proposal would therefore result in an unacceptable loss of on-street parking spaces both by itself and cumulatively by setting a precedent for further similar proposals.
 9. The plans show a visibility splay of 2.4m by 43m from a point taken from the back edge of the carriageway. However, in this case a point taken from the nearside edge of the vehicle track would be more appropriate given the presence of the on-street parking spaces. On that basis, it would not be possible to provide a clear sightline of 43m as required by the Council's Transportation Officer because the view would be obstructed by parked cars in both directions and by the bend in the road to the right and the incline to the left. Given the volume of traffic using the road, this would present a danger to drivers and other road users because drivers using the proposed access would be unable to see oncoming vehicles sufficiently.
 10. Although a 1m by 1m pedestrian visibility splay could be provided, the Council's Transportation Officer requires at least 2m by 2m. As there is high close boarded fencing along both sides of the drive, it seems unlikely that this would be achievable. Whilst there are many other accesses elsewhere along Rectory Road, there are none other than this one for a length of some 50m or so between the shared access and the access to no 179, a detached dwelling to

the east. The presence of an access in the position proposed would not be expected by pedestrians and due to the poor visibility, it would present a danger to pedestrians and other footway users such as those on mobility scooters.

11. The appellant's evidence indicates a number of constraints of the existing shared access, including its width, pedestrian visibility, a blind bend and the size of the parking area. However, as the proposal would only lead to the removal of vehicles associated with no 167 from using that access and the other five properties would continue to use it, I have given little weight to this matter.
12. The appellant has said that the Personal Injury Collision (PIC) records from 2017-2021 show that there was no PIC recorded on Rectory Road in the vicinity of the site frontage. As those relate to a period prior to the construction of this access in March 2023, that does not persuade me that there would be no harm arising from this proposal.
13. I conclude then that the proposal would result in a significant danger to highway safety by reason of the loss of parking spaces and poor visibility. As such it would be contrary to development plan policies PG3 and TP44 of the Birmingham Development Plan 2031 (2017) and policies DM2 and DM14 of the Development Management in Birmingham Development Plan Document (2021). Together, those seek to ensure that new development is appropriate to its location, encourages cycling and walking, creates a safe environment for people with disabilities and does not have an unacceptable adverse impact on highway safety.

Conclusion

14. For the reasons given above, the proposed development would be contrary to the development plan and there are no material considerations that justify determining the appeal otherwise. The appeal should be dismissed.

Sarah Colebourne

Inspector