



Appeal Decision

Site visit made on 8 July 2024

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd July 2024

Appeal Ref: APP/N1025/D/24/3344400

40 Ladywood Road, Ilkeston, Derbyshire DE7 4NE

- 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 Taylor against the decision of Erewash Borough Council.
 - The application Ref is ERE/0124/0049.
 - The development is described as 'form a dropped kerb driveway to the front of the existing property'.
-

Decision

1. The appeal is allowed and planning permission is granted for a dropped kerb driveway to the front of the existing property at 40 Ladywood Road, Ilkeston, Derbyshire DE7 4NE, in accordance with the terms of the application, Ref ERE/0124/0049, drawing nos. 23/838/01, 23/838/02, 23/838/03, 23/838/04 and 23/838/05, and the following condition:
 - 1) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no gates or other barriers shall be erected within, or on the boundary of, the driveway.

Procedural Matter

2. In its decision Erewash Borough Council ('the Council') describes the scheme as a part retrospective application for the retention of landscaping, engineering works, retaining walls and driveway, a proposed dropped kerb and vehicular access.
3. I observed on my visit that, other than the provision of a dropped kerb, the development appeared to be largely complete. I have therefore dealt with the appeal on the basis of the retention of the existing development, including those elements described in the Council's decision and as set out on the approved drawings.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - the safety and convenience of highway users.

Reasons

Character and appearance

5. The buildings along this stretch of Ladywood Road are set back at varying distances from the highway, some behind open frontages, and others behind a mix of fences, vegetated banks and stone or masonry walls, with examples of the latter at Nos 28, 30 and 51. These characteristics, along with the mixed form and style of the properties, all contribute to a diverse streetscene.
6. The driveway on the appeal site has been cut into the steeply rising ground, with brick retaining walls to the sides and rear. Whilst the rear wall is tall, it is set well back into the site, and the more prominent side walls near the frontage are much lower in height, and abut stone walls of a broadly similar height either side. Given the diverse range of front boundary finishes in the area, the brickwork does not appear out of place, and the use of contrasting blue engineering bricks, along with the stepped side walls, and block paving, provides visual interest and avoids an overly stark, utilitarian or domineering impact.
7. Having regard to its scale, design, materials and context, the scheme has not therefore harmed the character and appearance of the area, and it does not conflict with Policy 10 of the Erewash Core Strategy 2014.

Safety and convenience of highway users

8. Vehicular access to the driveway would be via a proposed dropped kerb and over the pavement. As illustrated by drawing no. HAS/24-000/01, vehicular visibility splays in both directions from the driveway are in excess of the 2.4 metre x 43 metre requested by Derbyshire County Council as Local Highway Authority ('LHA'). The Council therefore raises no objection on the grounds of vehicular visibility splays. For the same reasons, neither do I.
9. In its advice letter dated 20 February 2024, the LHA sets out that a relaxation of its normally required pedestrian visibility splays from 2 metre x 2 metre to 1 metre x 1 metre would be acceptable given the width of the adjacent pavement.
10. For my part, I observed that the driveway has been constructed without any pedestrian visibility splays. However, according to the 25 January 2024 letter from Highway Access Solutions ('HAS'), Delivering Streets and Places (2017) states that pedestrian visibility splays need not normally be provided at vehicular accesses to dwellings except in the presence of a major trip attractor or generator, or where bi-directional footfall exceeds 100 per hour.
11. I have no evidence that either of those scenarios occurs here; and, whilst it represents just a snapshot in time, pedestrian movements along the pavement at the time of my visit were limited. Additionally, given that the driveway would serve a single dwelling, vehicular movements to and from it would be typically modest, and most drivers would become familiar with using it, exercising due care and attention in the process. Furthermore, given the relatively broad width of this stretch of the pavement, and the presence of other driveways, I agree with HAS that pedestrians would be likely to walk roughly down the centre of it, thus increasing intervisibility between them and vehicles exiting the driveway.

12. Finally, I note that the provision of off-road parking may eliminate, or at least reduce, the need for the occupiers of this property to park on this fairly busy stretch of A road. This constitutes a modest highways benefit.
13. For these reasons, I conclude that the scheme does not give rise to a significant harmful impact on the safety and convenience of highway users. Consequently, it does not conflict with paragraph 115 of the National Planning Policy Framework which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Conditions and Conclusion

14. Turning to the matter of conditions, as the development is largely complete, the Council's suggested condition requiring that it be carried out in accordance with the approved plans is inappropriate. I have however referred to those plans in my formal decision.
15. Vehicles stopping on this busy stretch of carriageway to enable gates to be opened and closed would introduce a significant obstruction and potential risk to highway safety. I have therefore imposed a condition, largely as suggested, to control such development.
16. Summing up, the scheme has not harmed the character and appearance of the area; and its use would not significantly impact the safety and convenience of highway users. Consequently, having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR