



Appeal Decision

Site visit made on 16 July 2024

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/P4605/W/24/3342416

10 Moor Pool Avenue, Harborne, Birmingham B17 9HN

- 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 Miss Laura Vaitkeviciute against the decision of Birmingham City Council.
 - The application reference is 2023/04294/PA.
 - The development proposed is a new driveway and drop kerb.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development firstly, on the character and appearance of the local area; and secondly, on highway safety particularly for pedestrians using Moor Pool Avenue.

Reasons

Character and appearance

3. The appeal property is a 2-storey semi-detached dwelling that lies within the Moor Pool Conservation Area (CA). The CA is predominantly residential in character within which buildings of traditional style often stand behind small landscaped front gardens and face onto tree-lined streets that are relatively narrow with grass verges. These features positively contribute to an attractive streetscape. Moor Pool Avenue is one such example.
4. The proposal is a new vehicle crossover to provide access from the road to a hard surface area at the front of No 10. The new crossover would extend across part of the grass verge and footway to connect the main carriageway with the driveway of No 10. At present, this pleasant green space, with its grassed area and nearby roadside trees makes an important and positive contribution to the local area. It does so primarily by adding to the verdant qualities of, and the sense of space within, the local street scene.
5. The new crossover would cut across part of the grass verge and replace a significant area of grass with tarmac. While the proposal would not impede the use of the existing footway in front of the site, it would sever the main body of the grassed area. In doing so, the proposal would establish a clear visual and physical break in the greenery within the streetscape of which No 10 forms part. As one of a small number of examples of such development along Moor

Pool Avenue, the proposal would appear as a visually disruptive and uncharacteristic intrusion into otherwise largely uninterrupted green space. It would therefore fail to preserve the character and appearance of the CA.

6. I saw that dropped kerbs and driveways serve some dwellings further along Moor Pool Avenue and elsewhere in the CA. To my mind, these cases underpin my concerns regarding the harmful effect of such development. Indeed, the proposal, if allowed, could set an undesirable precedent given the similarity in the frontages of some dwellings along Moor Pool Avenue that could further harm the character and appearance of the CA. Therefore, I attach limited weight to these examples in support of the appeal.
7. On the first main issue, I conclude that the proposed development would materially harm the character and appearance of the local area. As such, it conflicts with Policies PG3 and TP12 of the Birmingham Development Plan (BDP) and the Birmingham Design Guide. These policies and guidance aim to ensure that development demonstrates a high design quality, adds to a strong sense of place and, in conservation areas, contributes to the asset's conservation while protecting or enhancing its significance.
8. There would also be a conflict with the National Planning Policy Framework (the Framework) regarding the protection of designated heritage assets and the statutory duty. This duty requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the CA, which I have done.

Pedestrian safety

9. Driver visibility would be restricted on exiting the new driveway by planting that marks the front boundary to the property next to No 10. This greenery would also obscure views of a vehicle exiting the site for oncoming footway users. As this planting falls outside the site, the Council considers that its requirement for pedestrian visibility at the site's access cannot be met without relocating the access point.
10. Some footway users would be aware of the need to be vigilant for vehicles entering and exiting front gardens given the presence of dropped kerbs and driveways elsewhere. However, others may not. The width of the footway on either side of the site would also provide sufficient space for pedestrians to stop a little distance away from a vehicle emerging from the site. Even so, a driver may exit the site quicker than footway users might expect, possibly catching some people by surprise.
11. A vehicle reversing into or out of the site across a footway with restricted visibility of approaching pedestrians even at a low speed would be far from ideal because it would pose a significant risk of potential collision and injury. Equally, footway users approaching the site even along a pavement that is reasonable in width may not have a clear view of a vehicle emerging from the parking area in front of No 10 if it is hindered by the boundary treatment of the neighbouring property on the immediate approach. For these reasons, the proposal would be an unacceptable risk to the safety of pedestrians.
12. From what I saw, many of these existing accesses within the local area also rely on vehicles reversing across a footway often with visibility impeded by the boundary features within other front gardens. I am unaware of the detailed

circumstances of these arrangements and most of which were far from ideal with regard to highway safety. These examples do not persuade me that the proposal, which would add to highway danger, should therefore be accepted.

13. On the second main issue, I conclude that the proposed development would have an unacceptable effect on pedestrian safety. Accordingly, it conflicts with BDP Policies PG3 and TP44, Policies DM2 and DM14 of the Development Management in Birmingham Development Plan Document, the SPD and the Framework. These policies and guidance aim to ensure that new development achieves safe and suitable access for all users.

Public benefits

14. The Framework states that when considering the impact of a proposal on the significance of a designated heritage asset, such as a conservation area, great weight should be given to the asset's conservation. Given the modest scale of the proposal relative to the considerable size of the CA, the harm would be less than substantial. In those circumstances, the Framework states that the harm should be weighed against the public benefits. No such benefits have been put forward and none would outweigh the significant harm that I have identified.

Other matters

15. Interested parties raise additional concerns including the effect of the proposal on biodiversity, on-street parking, a roadside tree, the frontage hedgerow of No 10 and precedent. These are important matters and I have considered all the submitted evidence. However, given my findings on the main issues, these matters have not been critical to my decision.

Conclusion

16. The proposed development conflicts with the development plan, when read as a whole. There are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR