



Appeal Decision

Site visit made on 8 July 2024

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th July 2024

Appeal Ref: APP/L5240/D/24/3341568

57 Bensham Manor Road, Thornton Heath CR7 7AE

- 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 Mr M Bashir against the decision of the Council of the London Borough of Croydon.
 - The application Reference is 23/03491/HSE.
 - The development proposed is the formation of vehicular access.
-

Decision

1. The appeal is allowed and planning permission is granted for the formation of a vehicular access at 57 Bensham Manor Road, Thornton Heath CR7 7AE in accordance with the terms of the application, Ref. 23/03491/HSE, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this Decision;
 - 2) The development shall be carried out in accordance with the following approved plans: OS based Location Plan; Drawing Nos. PL01; PL02 & PL03;
 - 3) Prior to the commencement of the development, a 'Reasonable Exception Statement' which outlines that the proposed development will not alter the fire safety of the building, or a 'Planning Fire Safety Strategy' in the event that the fire safety of the building will be altered, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the details thus approved.

Main Issue

2. The main issue is the effect of the proposed dropped kerb on highway and pedestrian safety in Bensham Manor Road.

Reasons

3. The Council's Notice of Refusal explains that the submitted plans do not provide sufficient information as to the on-site turning movements and sightlines for pedestrian and vehicles for the Highway Authority to be satisfied that the proposed dropped kerb would not have a detrimental impact on highway safety.

4. I acknowledge that the submitted plans and possibly the site itself do not fully meet the Highway Authority's normal standards as regards turning space and sight lines. However, the same can be said for many of the other frontage areas in the road which are used for parking, including at adjoining houses in the terrace, and are of the same size as at No. 57 and in some cases smaller.
5. The grounds of appeal has listed these front curtilages already used for parking within close proximity to No. 57. On the south west side of the road (the same side as the appeal dwelling) there are 26 and on the north east side 30. Whilst the Officer's Report concedes that there are existing crossovers and dropped kerbs on Bensham Manor Road, it argues that these do not set a precedent '*as it is not known when these crossovers were allowed or what policy was in effect at that time*'.
6. However, that admission of a complete absence of knowledge, in tandem with an apparent absence of any enforcement action against the obviously frequent instances where no application has been made, inevitably undermines the Council's position in applying its policies to the appeal application. And in my view the fundamental point is that the predominance of frontage parking in Bensham Manor Road is an inherent factor in the driving conditions of the road including the safety of road users and pedestrians.
7. In this regard the appellant has drawn attention to Appeal Ref. APP/L5240/D/23/3332315 in which my colleague Inspector observed that in very similar circumstances in Mitcham Road, '*failure to comply with the Council's (Vehicle Crossover) Guidance does not automatically equate to a negative or detrimental impact upon highway safety*'. I agree with this view and consider that when combined with the 20mph speed limit, the perception of drivers, including those making through journeys and not to and from houses in the road, and indeed pedestrians, would be one of a full awareness of vehicles entering and leaving individual frontages.
8. I also note that no accident data has been provided by the Council as evidence that the proliferation of existing on-site parking is a hazard in a part of Bensham Manor Road where the frontage depths are for the most part consistent. I have additionally had regard to the fact that kerbside parking has its own hazards and the elimination of this in front of No. 57 is a positive aspect in this regard. The appellant has also drawn my attention to the Council's previous approvals of crossovers at Nos. 12A, 42, 98 & 130 Bensham Road, albeit that I can give these only limited weight because for the most part they precede current policy and guidance.
9. Overall, I consider that in a context where there are already dozens of examples of frontage parking with many also below the Highway Authority's space standards for turning, the effect of the additional manoeuvres at No. 57 on highway safety would be minimal and therefore insufficient to outweigh the inequity in this instance of a refusal of permission. To be clear, I have come to this conclusion on this particular case where, although not wholly meeting the Highway Authority's swept path or sightline criteria, there would still be room to turn around a small or medium sized car. In other cases where there is less space, a refusal of permission may well be justifiable.
10. On balance I find that any conflict with the Highway Vehicle Crossover Guidance 2021; Policies DM29 & DM30 of the Croydon Local Plan 2018, and Policy T4 of the London Plan 2021 would not in this case be harmful and that

the proposal would not be precluded by paragraph 115 of the National Planning Policy Framework (December 2023). This states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

11. For the reasons explained above, I shall allow the appeal. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and is in the interests of proper planning. A pre-commencement condition to ensure that there would be no adverse effect of the scheme on fire safety has been included with the appellant's agreement.

Martin Andrews

INSPECTOR