



Appeal Decision

Site visit made on 4 September 2024 by M Long BA(Hons) MSc MRTPI

Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 OCTOBER 2024

Appeal Ref: APP/K3605/D/24/3347055

240 Molesey Road, Hersham, Walton-on-Thames, Surrey KT12 4QZ

- 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 Perry Jamieson against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/0138.
 - The development proposed is a dropped kerb.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matter

3. The description of the proposal on the application form includes words which are not a description of development. Therefore, in the interests of clarity and accuracy, the banner heading for this appeal decision includes the description of proposed development used by the Council in its decision notice and by the appellant in their appeal form.

Main Issues

4. The main issues are:
 - i) whether the proposal would be acceptable from an accessibility and highway safety perspective; and
 - ii) if there is any harm identified under the first main issue, whether such harm is outweighed by the personal circumstances put forward by the appellant.

Reasons for the Recommendation

Highway safety

5. The site is located on Molesey Road, a well-trafficked highway within a residential area. There are parking restrictions in place in the area (Monday – Friday a.m.) including in relation to parking on the single yellow lines and the demarcated spaces close to the appeal site. The appeal dwelling has an existing hard surfaced forecourt area. In front of the site, there is a bus stop

- and a large tree, both of which are located on a section of the pavement which is raised above the level of the vehicular carriageway.
6. The dropped kerb would significantly reduce the section of raised footway at the bus stop. Bus drivers would need to be alert to this and there would be an increased likelihood that, on pulling up alongside the bus stop, bus doors would not align with the reduced section of raised footway. This has the potential to result in difficulties for passengers boarding or alighting a bus, particularly for anyone with mobility issues. The Highway Authority has also confirmed that where a ramp is required between a bus and a dropped kerb, gradients can be potentially dangerous for some bus users, such as those using wheelchairs, mobility aids and pushchairs. There is no objective evidence before me to suggest otherwise. Overall, these factors indicate that the proposal has the potential to be detrimental to accessibility and safety for bus users.
 7. In addition, I observed that the hard surfaced forecourt serving the appeal dwelling is not of a sufficient size to turn a vehicle without excessive manoeuvring, particularly if two vehicles were to utilise this area for parking. Drivers reversing into or from 240 Molesey Road would not have optimum visibility of their surroundings and, given the likely propensity for people to be approaching or waiting at the bus stop, this has the potential to result in an increased risk for pedestrians. Even though the neighbouring properties have vehicular accessways, these are set further away from the bus stop and so are not directly comparable.
 8. I acknowledge that vehicles reversing onto the vehicular carriageway is commonplace on Molesey Road and that the use of the access would likely be infrequent and at low speeds. The appellant suggests that the proposal would alleviate parking stress in the area, that their work commute does not coincide with bus services and that the dropped kerb may prevent a vehicle from parking in front of the site and blocking the bus stop. While no detailed evidence is before me, they also assert that there have been no incidents in the area relating to movements from vehicular access points.
 9. However, the times that the proposed dropped kerb could be used could not be reasonably controlled and would likely also include access requirements outside the working week and for visitors. No substantive information has been provided in terms of parking stress levels and, given the limited capacity of the forecourt at the appeal dwelling, the proposal would be unlikely to have any significant bearing on parking availability in the area. Any on-street parking that currently takes place in the vicinity of the bus stop is likely temporary. Moreover, the factors put forward do not negate my concerns in respect of the site-specific, permanent effects of the proposal on pedestrian safety and accessibility at the bus stop.
 10. My attention has been directed to other local bus stops served by short sections of raised kerb. I am not aware of the planning context in which the footways at those particular bus stops were designed. In any case, those examples do not justify a degradation of bus facilities and pedestrian safety in the vicinity of the appeal site.
 11. I conclude that the proposal would have an unacceptable effect on accessibility and highway safety. As such it would conflict with Policy DM7 (Access and Parking) of the Elmbridge Local Plan: Development Management Plan (2015) which sets out that the siting of accesses and access to and from the highway

should be safe and Policy CS25 (Travel and Accessibility) of the Elmbridge Core Strategy (2011) which promotes accessibility to services. The proposal would conflict with one of the objectives of the Surrey County Council Local Transport Plan 2022-2032, namely to provide well connected communities that encourage social mobility and ensure no-one is left behind.

12. For the same reasons, there would be additional conflict with the National Planning Policy Framework (the Framework) which seeks to resist development that would have an unacceptable impact on highway safety and to create places that are safe, inclusive and accessible.

Personal circumstances

13. Paragraph 12 of the Framework confirms, amongst other things, that the development plan is the starting point for decision making and where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
14. The appellant has indicated that the proposal would enable extended family members, who have mobility issues, to visit the property more easily. I have no reason to doubt that this would be the case and that in that regard the proposal has the potential to be beneficial to the family members concerned. This is a personal circumstance to which I afford weight in favour of the appeal.
15. I have given due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to the provisions of the Human Rights Act 1998.
16. However, in weighing the personal circumstances in the balance, this has to be considered against the unacceptable effect that the development would have on accessibility and highway safety. In this regard, a refusal of planning permission is a proportionate and necessary approach to protecting accessibility and highway safety for the wider public. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the appellant's family member's human rights. Overall, the personal circumstances put forward in this instance do not outweigh the unacceptable effects of the proposal.

Other Matters

17. Safety concerns have been raised regarding potential future requirements to unload small children from a vehicle parked on the road. However, there is no compelling evidence before me to indicate that without the proposal, there would be a significant risk associated with such activity at this location.
18. The appellant suggests that the proposal could facilitate access to an electric vehicle charging point which could be installed at No 240, that it could lead to reductions in time spent finding a parking space including associated emissions, and that the dropped kerb could facilitate improvements to the pavement surface. Even if the proposal could in theory reduce emissions, the environmental benefits relating to vehicular activity associated with a single dwelling would not be of a substantial magnitude. Furthermore, my

accessibility and safety concerns override any perceived improvements that could occur to the pavement surface.

19. The relocation of the bus stop has been suggested. However, in their consultation response the Highway Authority refers to an investigation that concluded this would not be a viable option. There is no suggestion that detailed assessment or consultation with the Highway Authority has been undertaken to verify that the appellant's suggested location outside 266 Molesey Road would be suitable in all respects, including from an accessibility and highway safety perspective.
20. Reference has been made to a dropped kerb at the site being granted permission in 2011, but this was not implemented. No detailed evidence is before me in this regard, and I am not aware of the material planning considerations that would have been relevant at that time. Therefore, I have assessed the appeal on the basis of the current local and national planning policy requirements also having regard to the current concerns of the Highway Authority.
21. Concerns have been raised in respect of the Council's communication during the application stage. However, this is not a matter for me to assess under this appeal. The Council's reasons for refusing planning permission are set out in its decision notice and further substantiated within its officer report. It is the planning merits of the proposed development which are the focus of my recommendation.

Conclusion and Recommendation

22. The proposal would be contrary to the development plan and material considerations that have been advanced in this instance do not justify a decision other than in accordance with it. For the reasons given above and having regard to all other matters raised, I recommend that the appeal should be dismissed.

M Long

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

M Russell

INSPECTOR