



Appeal Decision

Site visit made on 19 January 2025

by Mrs Chris Pipe BA(Hons), DipTP, MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/P4605/W/24/3353263

140 Showell Green Lane, Birmingham B11 4HN

- 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 Jaleel Yasseen against the decision of Birmingham City Council.
 - The application Ref is 2024/01146/PA.
 - The development is extension to existing footway crossing.
-

Decision

1. The appeal is allowed and planning permission is granted for extension to existing footway crossing at 140 Showell Green Lane, Birmingham B11 4HN in accordance with the terms of the application, Ref 2024/01146/PA, and the plans submitted with it, subject to the conditions set out below:
 - (1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - (2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Site Plan 140 Showell Green Lane.
 - (3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing footway crossing.

Procedural Matter

2. Since the determination of the application the National Planning Policy Framework (2023) has been superseded by the National Planning Policy Framework (2024) (the Framework). However, in relation to this appeal the aims of both sets of policies are similar. No party would be prejudiced or caused any injustice by me proceeding with the appeal in light of this change in policy.
3. The Council changed the description of development from that stated on the application form. In the interests of clarity, I consider that the amended description accurately describes the appeal scheme and accordingly I have adopted the amended description in the heading above.

Main Issue

4. The main issue in this appeal is the effect of the highway safety.

Reasons

5. The appeal site is a semi-detached two storey property within a predominantly residential area. An open paved area for car parking is located to the front of the property. Dropped kerbs within the area are prevalent, the appeal site has an existing footway crossing, the proposed development would increase this to extend the full width of the plot.
6. The Council highlight that the total enlargement of the existing and proposed footway crossing (which includes that at No.142 Showell Green Lane) would exceed the permitted allowance of 8.5m which would lead to severe obstruction with pedestrians, insufficient off-street parking arrangements and inadequate drainage. The Council confirm that the total width of the footway crossing would extend to 9m.
7. I have not been provided with any policy or guidance which specifies a permitted allowance of 8.5m for a footway crossing. Notwithstanding this the Council contend that the allowance of 8.5m is a preventative measure to ensure pedestrian safety in situations where vehicles may drive over large sections of dropped kerbs to avoid traffic. The guidance is to ensure adequate drainage is maintained within highways. Additionally, the permitted allowance ensures sufficient off-street parking measures for general public use.
8. I have not been provided with the permitted allowance guidance and confirmation of the status of the document nevertheless it is important to recognise that guidance does not constitute a 'black and white' set of rules to be applied rigidly or exclusively when other material considerations indicate that an exception may be appropriate.
9. In this instance the proposed development would exceed the guidance by approximately 0.5m. If a car mounted the footpath to avoid traffic, it is difficult to rationalise why this would not be problematic at 8.5m but would at 9m without substantive evidence. I also observed during my site visit that other dropped kerbs in the immediate area extended at different widths, some similar to that proposed.
10. On-street car parking was common at the time of my site visit, whilst this is only a snapshot in time I also note the comment from the neighbour confirming on-street parking occurs. On-street car parking would limit the ability of vehicles to mount the footpath to avoid traffic.
11. In terms of drainage I note that there would be a retained rise in level of the footway between the appeal site and No. 138 Showell Green Lane and that a drain exists in the road in front of the appeal site and No. 142. I have not been provided with substantive details as to how the proposed development would not maintain adequate drainage.
12. The proposed development has the potential to restrict on-street car parking, however I observed during my site visit that a car was parking outside No. 138 without overhanging the appeal site.
13. The Framework at paragraph 116 specifies that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road

network, following mitigation, would be severe, taking into account all reasonable future scenarios. I have not been provided with evidence to persuade me that the proposed development would have an unacceptable impact on highway safety or that residual cumulative impact on the road would be severe.

14. I have not been provided with substantive evidence to demonstrate that the proposed development would harm the highway safety.
15. There is no conflict with Policies PG3 and TP44 of the Birmingham Development Plan (2017) which seeks amongst other things to create a safe environment and seeks to ensure the efficient, effective and safe use of the transport network.

Conclusion and conditions

16. For the above reasons I conclude that this appeal should be allowed.
17. I have imposed a standard condition relating to the commencement of development and a condition specifying the relevant plans as this provides certainty. In order to safeguard the character and appearance of the area I have imposed a condition concerning materials.

C Pipe

INSPECTOR