



Appeal Decision

Site visit made on 28 February 2025

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State.

Decision date: 26 March 2025

Appeal Ref: APP/C3105/W/24/3353652

7 Cherry Tree House, Evenlode Banbury OX16 1PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Michelle Hopkins against the decision of Cherwell District Council.
 - The application reference is 24/01541/F.
 - The development proposed is described on the Application Form as 'Dropped kerb along with tarmacing from road to the access in our rear garden. The current fence height will be lowered to allow safe entry and exit.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposed development upon:
 - The character and appearance of the locality; and
 - Highway safety.

Reasons

3. The appeal site is part of a larger planned housing estate, which has similarities in design, appearance and layout to the housing typically constructed from development corporations in the 1960s -1970s which introduced Radburn style housing projects. During this time a number of estates were formed around a collection of small cul-de-sacs and parking courts with rows of terraced housing placed amongst green infrastructure where there is a separation between vehicular and pedestrian movement giving an emphasis of spaces in and around the buildings. The dwellings within the estate have a very symmetrical design in placement and dwelling types with simple and functional construction utilising buff brick, pitch and gabled roof forms with concrete tiles with some dwellings having feature boarding, hanging tiles and render applied to front facades.
4. Longelandes Way is one of the main thoroughfares into the estate and contains large verges of amenity greenspace to either side of the road with dwellings setback from the road edge and facing towards greenspace rather than the road. There is a deliberate emphasis in the area of spaces and paths in and around dwellings with green and landscaped surrounds within and surrounding the estate. Whilst there have been some alterations to the estate over time, the estate retains many of the qualities of the original design such as spaces in

- and around dwellings, vegetation and symmetry that contribute to the character, appearance and local distinctiveness of the area.
5. The appeal site is one of the characteristic end terraced properties which fronts greenspace and faces side-on to Longelandes Way. Whilst many of the original boundary walls have been retained, part of the rear boundary of the appeal site has been removed and replaced with a close boarded fence and gate where there is a large worn area of grass where it appears that driving of vehicles over the grass has occurred. Behind the appeal site is a large grassed area with footpath that leads to a signalised pedestrian crossing.
 6. In assessing character and appearance as a result of development, the Cherwell Local Plan 2011-2031 (LP) Policy ESD15 seeks consideration around designing places with considerations around quality and appearance and the way the area functions, where development reinforces local distinctiveness, topography and landscape features, amongst others. Saved Policy C28 of the Cherwell Local Plan 1996 (CLP) seeks that all development is sympathetic to existing character with regards to the standards of layout, design, external appearance and finish of materials.
 7. I note that the Reason for Refusal in the Council's Decision Notice refers to CLP Saved Policy C30. This policy appears to relate only to the assessment as a result of an extension to a dwelling or for a new housing development or a conversion of a building for housing, as opposed to the development to construct a crossover, access road and the lowering of a fence. As such, I do not consider that this policy is relevant to the determination of this appeal.
 8. The proposal would remove an area of greenspace which would then contain a tarmacked drive to the rear of the appeal dwelling. Unlike the surrounding greenspace, the access road would have an awkward appearance and present a car dominated appearance to the rear of the dwelling which would also be used to park vehicles upon as opposed to the current green character. The driveway would also not reflect the original design approach where vehicle traffic is separated from the residential environment, with also the current fence lowered unlike the surrounding character where there are small rear gardens backing onto laneways which then back onto greenspace.
 9. I appreciate and empathise with comments in the Appellant's Statement of Case (SoC), with regards to anti-social behaviour, lack of parking and the run down nature and lack of maintenance of the estate. Whilst on my site visit I did notice areas such as greenspace which did appear to have experienced a decline in maintenance, however this would not justify further harm via development that would cause additional harm to the character and appearance of the locality.
 10. I note that the Council has discussion around precedent and also mentions this within their reasons for refusal. Whilst each planning application and appeal must be considered on its own merits, I can appreciate the Council's concern that approval of this proposal could be used in support of similar schemes in residential locations, and in this particular location. I consider that this is not a generalised fear of precedent, but a realistic and specific concern given the orientation of curtilages of properties in the area. Allowing this appeal would make it more difficult to resist further planning applications for similar development which would result in the

further lack of greenspace and I consider that their cumulative effect would exacerbate the harm which I have described above.

11. Taking the above into account, the proposal which includes tarmacked drive, lowering of fence height and use of the area for vehicular parking would not be in-keeping with the character, appearance, and local distinctiveness of the locality. Consequently the proposal would be made contrary to LP policy ESD15 and CLP Saved Policy 28 as described previously.

Highway Safety

12. At the time of my visit near lunchtime, the footpaths on both sides of Longelands Road were well used particularly by adults. Based on what I saw on my site visit I deduce that despite its deficiencies, Longelands Road operates satisfactorily without any significant safety issues. Whilst I have not been presented with any accident data, the absence of formal accident data does not in itself mean that accidents have not occurred, near misses, or indeed that a carriageway is 'safe.'
13. The proposed drive to the rear of the appeal property would create an access and dropped kerb from Longelands Way. Longelands Way is a residential road and is a single carriageway in each direction that has a low speed limit of 30 miles per hour. The road is on a curve with the road topography having a slight slope that falls away from a nearby roundabout. The road contains street lighting, concrete kerbs, and footpaths on either side, with paths from the greenspace also joining the footpath. At this point of Longelands Way, there are 'controlled area markings' where road markings contain a zig-zag line which gives notice of an approaching signalised Pelican Crossing which, although not indicated on the plans, would appear to be adjacent and potentially physically impacted by the proposed dropped kerb and access. There is also some tactile paving along the pedestrian path at the point of the proposed access. No information is presented within the application as to the effect on existing road infrastructure and whether the proposed access is possible.
14. The proposal in its current form would likely interfere with the existing safe operation of the crossing, particularly by pedestrians with mobility impairments. The proximity of the pedestrian crossing, tactile paving, together with the competing functioning of the access, and visibility along the road which curves at this point are further areas of concerns for both the safety of pedestrians and vehicles. Additionally, any pedestrians utilising the existing access to the rear of the terrace would likely be difficult to see despite the lowering of the fence to improve visibility splays.
15. I note comments and photographs from the Appellant's SoC¹ with regards to other locations where there is a dropped kerb within a controlled marking area or dwellings utilising grass verges for parking of vehicles. I have not been presented with any evidence which demonstrates whether these cases have any form of consent, or the timings, such as crossings placed in areas after dropped kerbs were instated. Even so, cases are required to be assessed on their merits and the particular circumstances as outlined above are not identical to the examples given. As such these examples do not assist in demonstrating the appropriateness of the proposed development and I therefore give limited weight to these cases.

¹ Warwick Road, Wood Green Road.

16. Taking the above into account and in conclusion of this matter, the proposal would cause adverse detriment towards highway safety and would therefore be contrary to LP Policy ESD15 which seeks that development respect the traditional patterns of routes, spaces, blocks and plots that promotes pedestrian movement and integrates the different modes of transport.

Other Matters

17. I acknowledge and appreciate the comments from the Appellant in their SoC regarding their personal needs, their specific situation and justifications for the proposed development which I have treated as a material consideration to this proposal. I also note comments within the original application that supported this application. Having reviewed these personal circumstances and comments of support, I feel that there may be other ways of accommodating the Appellant's needs which may be more compliant with the policies of the development plan. As such the personal circumstances of the applicant in this case do not indicate that the decision should not be made in accordance with the policies of the development plan.
18. I have considered these benefits, which would not provide sufficient justification to outweigh the harm caused. What is clear to me from my observations on site and from the LP Policy is that the proposal for a dropped kerb and access drive to the rear of the appeal site would be problematic to the free flow of traffic and pedestrian safety as a result of this proposed development, together with impacts towards the character and appearance of the area. There is nothing before me to suggest that alternatives have been considered.

Conclusion

19. Taking the above into account, I conclude that the appeal be dismissed.

J Somers

INSPECTOR