



Appeal Decision

Site visit made on 24 April 2025

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/D1590/D/25/3360281

241 Westbourne Grove, Westcliff-on-Sea, SS0 0PS

- 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 S Vemireddy against the decision of Southend-on-Sea City Council.
 - The application Ref is 24/01481/FULH.
 - The development proposed is form new vehicle crossover onto Westbourne Grove.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is the effect of the proposed crossover on the character and appearance of the streetscene, and on ecological assets, through the loss of the planted verge and potential harm to the street tree.

Reasons

3. The appeal site is a detached bungalow on the west side of Westbourne Grove, a predominately residential road. This part of Westbourne Grove is characterised by shrub planted verges either side of the highway, with some mature trees. There is an existing mature Horse Chestnut Street tree adjacent to the proposed crossover.
4. Westbourne Grove is a one-way classified road, with traffic travelling southwards. The proposed crossover measures some 2.4m in width requiring the removal of the same length of hedge. The crossover would be close to the canopy of the adjacent mature Horse Chestnut tree and would be about 4.5m from the trunk as measured on the plan.
5. The starting point is planning policy in the development plan. The most relevant document is the Development Management Document of 2015 (DMD), in particular, policy DM1. Policy DM1 requires that all development, (i) should add to the overall quality of the area and respect the character of the site, its local context; and (iii) Contribute positively to the space between buildings and their relationship to the public realm. The policy specifically refers to the need for development to draw reference to the design principles set out in the Design and Townscape Guide Supplementary Planning Document (SPD). This document will have gone through a consultation process and, whilst not part of the development plan, policy DM1 incorporates a requirement for all developments to draw reference from it.

6. Paragraph 173 of the SPD, under the heading 'Crossovers', states that *"new crossings and hard standings should not result in the loss of street trees or planted verges unless they can be replanted within the vicinity."* Both the DMD and the SPD are in accord with the National Planning Policy Framework (NPPF).
7. There is also reference to a document with the title 'Vehicle Crossing Policy' (2021). This is a Traffic and Highways document and is not part of the development plan. I therefore regard it as of little weight in this planning decision. However, in respect of the tree, the highways department consultation response makes clear that ensuring that tree roots are not adversely affected is a consideration. The Parks department's response to consultation on the application makes reference to the importance of a full trial trench and other investigation to identify the extent of tree roots and to inform the decision in respect of the tree.
8. The shrub planting and the street trees are clearly an important component in the very pleasant character of Westbourne Grove. The appeal proposal would result in a substantial loss, some 2.4m of the hedge, and would likely have an adverse effect on the mature horse chestnut tree. In addition to the visual loss of a significant length of hedge, both the hedge and the tree have an ecological value.
9. I note the previous appeal decision (APP/D1590/D/20/3252600) relating to a similar proposal at 307 Westbourne Grove, which I viewed at my site visit and which is shown in photographs supplied by the appellant. All cases must be judged on their individual merits, but in any event the existing situation at No.307 does not suggest to me that this should be taken as a precedent. Indeed, if a precedent were taken to be set, and play a substantial part in influencing the decision in this case, it would make it more difficult to justify a refusal in later similar cases. This would be to the increasing detriment to the character and appearance of the street and the ecological benefit that the trees and planted verges currently provide. Although the appellant suggests that there are few repeat opportunities remaining along the street, this has not been supported by evidence.
10. I entirely understand the appellant's desire to achieve off street parking and the facility for off-street electric car charging; indeed, the needs and desires of individual households must be given appropriate weight in the planning balance. Providing for convenient off-street charging facilities is in the public interest, which I fully recognise.

Conclusions

11. As paragraph 2 of the NPPF states, "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise". In this case the DMD was adopted in 2015 and therefore it can be questioned as to how up-to-date it remains. It will have been examined against the then NPPF, and in respect of matters in this appeal, remains in accord with the December 2024 version. Whilst the SPD was adopted in 2009, prior to the adoption of the 2015 DMD, reference to it in Policy MD1 makes it clear that its content was considered to be sound at that point. In my opinion it remains so.
12. Section 12 of the NPPF emphasises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (paragraph 131) and design guides and codes provide a local framework for creating beautiful and distinctive places with a

consistent and high-quality standard of design (paragraph 133). This is part of the social objective of sustainable development as mentioned in paragraph 8 b), and paragraph 130 encourages area-based character assessments, design guides and codes and masterplans ... to help ensure that land is used efficiently while also creating beautiful and sustainable places.

13. Thus the development plan is the principal consideration on which this appeal decision should be made. Decisions on development proposals should not slavishly follow the text of adopted policy, but it is the starting point that has to be balanced against 'other material considerations'. This requires a planning judgement to be made, which often requires the weighing of competing factors, each being compelling in their own way.
14. In this case I conclude that the private benefit to the appellant, and the public benefit that I have mention in paragraph 10 above, of providing convenient off-street charging facilities, do not outweigh the harm to the character and appearance of the streetscene, and to ecological assets, through the loss of the planted verge and potential harm to the health of the street tree. This harm would be contrary to NPPF, Policies KP2 and CP4 of the Core Strategy (2006), and particularly of Policy DM1 of the DMD, and the advice contained within the SPD.
15. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR