



Appeal Decision

Site visit made on 14 May 2025

by **Andrew Dale BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 May 2025

Appeal Ref. APP/W3710/D/25/3363830

147 Royal Oak Lane, Ash Green, Coventry CV7 9AX

- 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 Nigel Constantine against the decision of Nuneaton and Bedworth Borough Council.
 - The application ref. is 040616.
 - The development proposed is described on the application form thus: *To widen access to driveway by extending the existing 'dropped kerb' by a further five '3 foot' kerb stones (sic), a total of 15 feet.*
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Decision

1. The appeal is allowed and planning permission is granted to widen access to driveway by extending the existing 'dropped kerb' by a further five '3 foot' kerbstones, a total of 15 feet at 147 Royal Oak Lane, Ash Green, Coventry CV7 9AX in accordance with the terms of the application ref. 040616, subject to the following conditions:
 - 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: Site Location Plan and Proposed Kerb Sketch.

Preliminary matter

2. Legislation other than the Planning Acts applies to vehicle crossings over footways and verges ('dropped kerbs'). These works are covered by section 184 of the Highways Act 1980. The appellant would need to seek a licence from the Highway Authority to extend the vehicle crossover regardless of this appeal decision.

Main issue

3. The main issue is the effect of the proposal upon highway safety.

Reasons

4. The proposal is to extend an existing vehicle crossover, in the manner described in the heading and decision above, on the highway frontage of no. 147, a detached house facing the western side of Royal Oak Lane. Planning law requires that applications for planning permission be determined in accordance with the
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development plan, unless material considerations indicate otherwise. The development plan includes the Council's Borough Plan (BP).

5. Whilst the Council's Delegated Report (DR) mentions BP Policies DS1 and BE3, the precise relevance of those policies to highway safety is not made clear in the DR and more importantly, no conflict with them was advanced in the Council's decision notice (DN). Also, the Council did not point to any mismatch with the Sustainable Design and Construction Supplementary Planning Document.
6. The Council relied on the National Planning Policy Framework (the Framework). This is a material consideration in planning decisions. At paragraph 116, the Framework says 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. Like most planning issues, the question of highway safety needs to be viewed in the round.
7. Royal Oak Lane, a classified road with a 30 mph speed limit, slopes downhill and follows a bend from its junction with Ash Green Lane, Vicarage Lane and New Road, a fairly short distance to the south of the appeal site. It is also a bus route but there are no bus stop posts or shelters in the vicinity of no. 147.
8. There is however a speed cushion in the road adjacent to the appeal site, paired with another on the other side of the carriageway. They form part of a traffic calming or casualty reduction scheme that saw the introduction of speed cushions on all 4 arms of the junction referred to in paragraph 7 above with the aim of reducing vehicle speeds and improving road safety.
9. The DN does not explicitly say why the extension to the dropped kerb "...*would have an unacceptable, detrimental effect on highway safety...*". That said, there was an objection from the County Council as Highway Authority. Its Traffic & Road Safety Team (T&RS Team) reported that "*Due to the close proximity of the speed control cushions to the vehicle access point, the T&RS Team would object to these works being granted, as these cushions would have to be removed to enable the vehicles to use the widened access.*"
10. The response from the Highway Authority was brief and if the last sentence of its consultation letter dated 28 January 2025 is correct, it was based on a desktop assessment and appraisal of the development proposals. This is worrying in itself and so it comes as no surprise to learn from the appellant's statement that in his subsequent discussions with the Highway Authority it has apparently been agreed that 3 of the 5 kerbstones could be replaced. The appellant says that he is still in discussions about the other 2 kerbstones. I assume those discussions have primarily been aimed at acquiring a licence from the Highway Authority.
11. I have not been referred to any local planning policies, technical guidance or standing advice on the construction or widening of residential crossovers or on any related safety requirements regarding accesses adjacent to traffic calming measures. It has not been made clear exactly why, in highway safety terms, these particular speed cushions would have to be removed to enable vehicles to use the widened access. I can only logically interpret the response from the T&RS Team that if this did occur, it would weaken the casualty reduction scheme as a whole.

12. I saw that most drivers and other road users heading north on the side next to the appeal site frontage will already be aware of the presence of speed cushions and are unlikely to be suddenly surprised by yet a further one in front of the appeal property which benefits from a visible and open frontage. There is good forward visibility of the speed cushions for drivers and other road users heading south.
13. Having regard to the narrow width, limited height and gentle on/off and side ramp gradients of the subject speed cushions, I saw that the vast majority of vehicles do not undertake any braking or gear changes in preparation for passing over them. Traffic progresses over them smoothly at or in excess of the 30mph speed limit as indicated by the appellant. These speed cushions are ineffective at controlling speed in themselves and have been peculiarly placed so as to partly obscure 30 mph speed limit warnings laid out in white paint on the highway. More importantly, for similar reasons relating to the design of the speed cushions, any vehicles, including low sports cars, would be able to enter and exit no. 147 without grounding problems and without unduly slowing down or having difficulty negotiating the speed cushions. So, the potentially hazardous sudden congestion, confusion or bottlenecks that may arise with more substantial speed cushions or humps next to the access point would not be encountered by other road users.
14. The presence of the speed cushions may of course still be a matter for the licence application. In any event, on my tour of the area, I noted a speed cushion across almost half the width of a fully dropped kerb outside 44 Exhall Road not far off where New Road merges into Exhall Road.
15. On the other side of the coin, there are also highway safety benefits to what the appellant is proposing. I agree with the appellant that the road and traffic conditions are such that being able to enter and exit the driveway quickly without having to reverse in from or out to the road would be clearly beneficial to highway safety. The application form pointed to 5 accidents outside no. 147 in the past year. The appellant aims to widen the crossover to maximise manoeuvrability across the front hardstanding so that vehicles can more readily and conveniently enter and leave the site in a forward gear. This attracts significant weight in favour of the proposal.
16. Drawing the above together, I consider that the scheme would neither be prejudicial to the free flow of traffic on the classified road nor have an adverse impact on road safety, including for bus services, pedestrians and cyclists. I therefore find on the main issue that the proposal would not have an unacceptable, detrimental effect on highway safety. There would be no conflict with the aims of the Framework. My finding on the main issue is decisive to the outcome of this appeal.
17. In the Questionnaire, the Council offers 3 conditions in the event of the appeal succeeding. In addition to the standard condition on the time limit for commencement, a condition specifying the relevant drawings is necessary to provide certainty. The third suggested condition would require the materials to be used in the construction of the external surfaces of the development to match those of the existing building. Given the nature of the proposal, this is not necessary.
18. For the reasons given above and noting the absence of objections from local residents, I conclude that this appeal should succeed.

Andrew Dale INSPECTOR