



Appeal Decision

Site visit made on 15 October 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24 October 2025

Appeal Ref: APP/W3710/W/25/3370328

356 Higham Lane, Nuneaton, Warwickshire CV11 6AP

- 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 Rugveer Narwall against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref is 040944.
 - The development proposed is proposed extension of existing dropped kerb.
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Decision

1. The appeal is allowed and planning permission is granted for proposed extension of existing dropped kerb at 356 Higham Lane, Nuneaton, Warwickshire, CV11 6AP in accordance with the terms of the application, Ref 040944, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos Location Plan (received 08 May 2025) and 356 Higham Lane Drop Kerb Plan V3 (received 11 August 2025).
 - 3) Notwithstanding the development hereby permitted in condition 2, nothing shall be erected, retained, planted and/ or allowed to grow at or above a height of 0.6 metres to the rear of the footway which would obstruct the visibility splay. The visibility splay shall be maintained free of obstruction at all times thereafter for the lifetime of the development.

Preliminary Matters

2. I have used the description of development contained within the Council's decision notice in the banner heading above as it more concisely describes the development to which the appeal relates. It does not fundamentally change the development subject of the appeal. I am therefore satisfied that neither party would be prejudiced by my use of it.
3. The appellant has provided amended plans during the appeal process. The procedural guide for planning appeals advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage.
4. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental

change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.

5. The amended plans were provided to the Highways Authority for comment. The Highways Authority, as a statutory consultee, has stated that the revised plans have overcome its previous concerns and accordingly, its objection to the scheme. I am satisfied that the amended plans do not substantially alter the proposed development when compared to those upon which the Council made its decision. Furthermore, given that the statutory consultee has been consulted and the absence of any other objections from interested parties, I am satisfied that in this case the interest of interested parties would not be prejudiced by my acceptance of the amended plans.

Main Issue

6. The main issue in this appeal are the effects of the proposed development on highway safety and trees.

Reasons

7. The appeal dwelling, 356 Higham Lane (No 356) is located in a predominantly residential area and shares a dropped kerb with its neighbouring dwelling, 358 Higham Lane.
8. The appeal scheme would extend the dropped kerb by approximately 1.34m which would result in an overall length of the dropped kerb measuring 5m. Part 3.4.4 of the Warwickshire Design Guide (Online Version) (the WDG) outlines that the maximum width for single dropped kerb should not exceed 5m. Consequently, the appeal scheme would comply with the requirements of the WDG.
9. The amended plans demonstrate that the proposed development would be at a sufficient distance from the tree that is located on the highway. It would therefore retain a root protection area and would not result in unacceptable harm to the tree.
10. Given all of the above, I am satisfied that the proposed extension of the dropped kerb would not result in harm to highway safety or trees and therefore it would comply with Policy NE3 of the Nuneaton and Bedworth Borough Council Borough Plan 2011-2031 insofar as it seeks to ensure that development proposals do not result in harm to biodiversity features including trees. It would also accord with the requirements outlined in the WDG in relation to Street Design and in particular the length of single dropped kerb accesses as well as paragraphs 116 and 117 of the National Planning Policy Framework.

Conditions

11. The Council has provided a list of suggested conditions which I have considered against the Framework, and advice contained in the Planning Practice Guidance. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 57 of the Framework.
12. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). Additionally, a condition preventing obstructions of over 0.6m in height is necessary in the interests of highway safety (3).

13. I have not imposed a condition preventing the occupation of the development until the appeal scheme has been implemented because the need for this condition to make the development acceptable in planning terms has not been adequately demonstrated.

Conclusion

14. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be allowed.

B Astley-Serougi

INSPECTOR