



Appeal Decision

Site visit made on 17 May 2022 by G Sibley MPLAN MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/D1835/D/21/3292373

130 Astwood Road, Worcester, Worcestershire WR3 8EZ

- 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 Mr Emmanuel Muliette against the decision of Worcester City Council.
 - The application Ref 20/00612/HP, dated 29 July 2020, was refused by notice dated 19 October 2021.
 - The development proposed is to have kerb dropped for vehicle access, 4.7m length.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issue

3. The effect of the proposal upon highway safety.

Reasons for the Recommendation

4. No 130 is a terraced property set back from the road behind a tarmac frontage. Astwood Road is a classified road with double yellow lines on both sides, which leads into Worcester city centre. The dwellings in the area are similarly designed, set back from the roadside behind either driveways or front gardens.
5. The proposal would create a dropped kerb across the whole of the site frontage. The frontage is already used by the appellant to park vehicles, by driving over the existing kerb. The property has a bay window on the front elevation which restricts the depth of part of the frontage to approximately 4.5m. Consequently, the available depth for parking vehicles in front of the bay window is approximately 30cm shorter than the minimum size for a parking space as set out in the Worcestershire County Council Streetscape Design Guide (adopted 2020). Either side of the bay window the frontage is deeper, however there are doors and paths each side.
6. Creation of a dropped kerb would allow vehicles to park on the frontage lawfully. However, due to the restricted depth, this would lead to the potential for parked vehicles overhanging the footway, reducing the available space for pedestrians and hindering the free flow of movement. Due to the limited width of the pavement in this location, if a vehicle overhung the footway at No 130

this could lead to pedestrians having to enter the road to get past the parked vehicle.

7. Based on the information submitted with the appeal I cannot be certain that there would be sufficient width to park a vehicle up against the front wall of the house on either side of the bay window. In any event, this would involve parking over the pathways either side of the frontage, restricting access to the front door and/or the shared alleyway between Nos 130 and 132. This would create significant inconvenience for occupiers, therefore I consider it very unlikely that vehicles would only be parked in these locations if the appeal were allowed.
8. Whilst photographs have been submitted that show two cars could park on the frontage without overhanging the footway, there is no guarantee that the occupiers would not change their vehicle in the future, or that visitors or future occupiers would have a similarly sized vehicle. There would be no way to limit the size of vehicles parked on the frontage, such that they would never overhang the footway.
9. There are dropped kerbs in front of several dwellings in the immediate area, however I have no details of how these came to be built and whether they were approved by the Council. Given the consistent building line along this side of Astwood Road and design of the properties, several of the dwellings with dropped kerbs have bay windows similar to No 130. When walking down this side of Astwood Road I saw several parked cars that overhung the pavement, which already caused an obstruction to pedestrian movement. Whilst I appreciate the appellant's frustration that such parking areas already exist, it does not justify worsening the existing situation for pedestrians by allowing additional substandard parking.
10. The evidence before me is that wheelie bins are left on the pavement on collection days, leading to the pavement being further obstructed. While this is temporary, it nevertheless exacerbates the existing impact of vehicles overhanging the pavement and again does not justify allowing this appeal which would create the potential for further hazards to pedestrians.
11. Consequently, it has not been demonstrated that there is sufficient space for vehicles to park on the frontage of No 130 without overhanging the pavement, therefore the proposal would result in unacceptable harm to pedestrian safety.
12. Moreover, on classified roads such as Astwood Road, the space available for parking vehicles should be large enough for turning to ensure vehicles can both enter and exit the site in a forward gear. Given the dimensions of the frontage this would not be possible, which the appellant does not dispute. Consequently, vehicles would need to reverse onto or off the frontage in order to park.
13. While there is good visibility in either direction, this is a relatively heavily trafficked road and vehicles entering or exiting the site using a reversing manoeuvre would lead to conflicts with vehicles and cyclists on the road as well pedestrians on the pavement. Given the relatively narrow width of this section of the road, oncoming traffic would not always be able to pass easily, so would need to wait for vehicles to manoeuvre into or out of the appeal site. This would hinder the free flow of traffic and increase the risk of accidents. Consequently, vehicles entering or exiting this driveway in a reverse gear

- would result in additional hazards to pedestrians and road users, leading to unacceptable harm to highway safety.
14. I recognise that cars reverse to and from other frontage parking in the road however this does not justify introducing further hazards.
 15. The frontage is already used for parking and the identified issues may already happen. However, this does not appear to be a lawful situation as it involves driving over the kerb and there is no formal access. As it appears to be unauthorised, I cannot give this weight as justification for allowing use of the area for parking.
 16. In light of the identified issues, the limited size of the frontage and the associated unsafe manoeuvres, the continued use of this frontage via the proposed dropped kerb would only lead to further potential for conflict with both pedestrians, cyclists and other vehicles. Consequently, the proposal would have an unacceptable impact upon highway safety.
 17. Accordingly, the proposal would conflict with Policies SWDP 4 and 21 of the South Worcestershire Development Plan (2016). These state that satisfactory access and provision for the parking, servicing and manoeuvring of vehicles should be provided in accordance with the recognised standards. It would also conflict with paragraph 111 of the National Planning Policy Framework which seeks to ensure that development proposals would not have an unacceptable impact upon highway safety.

Other Matters

18. The personal circumstances and health conditions of the occupiers of No 130 mean that they would benefit from being able to park close to their home. I appreciate that being able to park on the frontage would be more convenient than having to travel to a vehicle parked on a nearby, unrestricted road. Driving over the kerb also causes discomfort and pain to the occupiers and can cause damage to cars. However, as there is currently no dropped kerb, they should not be driving over the raised kerb or parking on the frontage.
19. The appellant suggests the alternative would be vehicles waiting on the road to pick up or drop off the occupiers. Even if this were to take place on the double yellow lines, the evidence before me suggests that such instances would be relatively infrequent and temporary. Consequently, it has not been demonstrated that this would result in the same degree of harm as the proposed dropped kerb, particularly for pedestrians. Furthermore, there is on-road parking available nearby on unrestricted roads where visitors and family could park without the harmful impacts identified above.
20. I have had regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. Since the occupiers are disabled, they are persons who share a protected characteristic for the purposes of the PSED. It does not follow from the PSED that the appeal should succeed. However, dismissing this appeal would prevent the occupiers of No 130 from having convenient frontage parking which, due to their personal circumstances, could result in additional difficulties for them. I afford this harm moderate weight. Nevertheless, the proposal would result in harm to the safety of pedestrians, cyclists and other road users and would continue even if the current occupiers moved out. I therefore afford this harm considerable weight. Consequently, the personal

circumstances of the occupiers do not outweigh the harm from the proposal and do not justify granting permission.

21. The appellant has identified several dropped kerbs on Astwood Road. Many of these were located a significant distance from No 130 where the road layout is different and therefore the impact on highway safety is likely to have been different. In terms of the dropped kerbs at 87 and 89 Astwood Road, I am unaware of the circumstances by which those came to be built, what led to them being granted permission by the Council and what standards were in place at the time. In particular, I cannot be certain from the evidence submitted that they were allowed after the Design Guide was adopted. Each case must be assessed on their own merits, and it has not been demonstrated that the specific circumstances of Nos 87 and 89 are comparable to No 130. Therefore, the Council granting permission elsewhere does not justify this proposal.
22. Whilst the appellant was not happy with the approach taken by the Council during the application process, it is not my role to consider these matters in determining this appeal, which I have considered on its own merits and the evidence before me.

Conclusion and Recommendation

23. The proposal would conflict with the development plan and there are no material considerations that indicate that the decision should be made other than in accordance with it. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

24. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

L McKay

INSPECTOR