South Tyneside Council

Reference:	ST/0650/24/FUL
Location:	185 Temple Park Road South Shields NE34 0EW
Ward:	Harton
Description:	Extension of existing vehicle access
Recommendation:	Refuse Permission
Case Officer:	Samantha Gallagher
Case Officer Contact No.:	0191 4247447 or 07741109243

Description of the Site

The application site consists of an area of grassed verge to the front of a semi-detached dwelling located on Temple Park Road, South Shields. At present No. 185 Temple Park Road is served by a shared vehicular crossing across the adjacent highway verge (shared with the neighbour at No. 183 Temple Park Road). The front of the property faces onto Temple Park Road, with a footway and grass verge between the front boundary of the property (delineated by a brick boundary wall with opening) and the carriageway. The property benefits from an extended area of hardstanding for off-street parking within the curtilage of the dwelling, which is accessed by the existing (shared) vehicular crossing. The footpath, verge and the shared verge crossing all form part of the adopted highway. To the front of no. 185 Temple Park Road and the adjoining neighbour (No. 187 Temple Park Road) is a bus stop layby and a bus shelter, which is located in front of no. 187. The verge crossing serving the property is located within a bus stop layby and is currently 5.4m in width. Located in-between the verge crossing and the bus shelter is a mature street tree, a Whitebeam.

Description of the Proposal

Planning permission is sought for the verge crossing to be extended to serve No. 185 Temple Park Road. The proposals seek an additional 3.6m of hard surfacing to extend the access crossing within the highway verge resulting in a crossing measuring 9m in total width.

Relevant Planning History

The planning history of the site is as follows:

ST/0129/24/HFUL - Single Storey Rear Extension – GRANTED 24/04/2024

Summary of Consultation Responses

The following responses were received in response to the statutory consultation period which ended on 19/12/2024.

Transport Development officer

When assessing this application, the Highway Authority checks that the proposal will not result in an adverse impact on the safety of all users of the highway, the highway network or highway assets. The information submitted has been checked against the context outlined. We are aware that the South Tyneside Council Tree Officer has provided separate comments on the prejudicial impact that the widened vehicular access across the highway verge would have on the adjacent tree located in the highway. The Highway Authority would not wish for the tree to be removed to facilitate a wider access to the public highway.

Notwithstanding the above and the prejudicial impacts on the adjacent highway tree, resulting from the proposal, the Highway Authority would have no highway safety reasons for objecting to the vehicular access widening works.

However, if the main purpose of the resident is to increase driveway area to achieve additional in-curtilage parking provision relative to the dwelling, then the adjoining neighbour at no.187, who has a similar access arrangement, has managed to widen their driveway internally without impacting on the vehicular access width. The depth of driveway between the highway (rear of footway) and front of dwelling allows a car/vehicle to be parked deeper onto the driveway, which facilitates a car/vehicle to get passed a parked car/van onto the widened driveway area.

To allow the tree to be preserved in its location, the Highway Authority would recommend that the access widening works not be progressed and that the wider driveway arrangement be utilised like no.187. If this arrangement is to be accepted by the LPA and to avoid continued unauthorised over-running of the highway verge area gaining access to the widened driveway, which can also have a detrimental impact on the tree, it will be necessary for bollards or preventative measures to be put in place on the verge area fronting the widened driveway frontage.

In addition to the above, we are not aware if the drainage channel inserted along the driveway frontage discharges into a positive drainage system or soakaway, or if the increase in driveway area itself necessitates the submission of a planning application, which the LPA may wish to consider and clarify.

Officer comment: works to widen the hardstanding within the curtilage of the property have been undertaken by the residents, including removing part of the boundary wall to facilitate a wider opening in the boundary wall and installation of block paving and a drainage channel to direct surface water. From a case officer site inspection and photographs provide by the applicants, these works are deemed to be permitted development and did not require the consent of the local planning authority.

Tree Team :

The proposed widening of the driveway toward the Whitebeam street tree creates a significant incursion into the RPA (root protection area) as defined by the British standard 5837:2012. In accordance with the standard, the default position for any new development should be outside of the RPA of retained trees, unless there is an overriding reason for the incursion. In this case, we would consider an overriding need to widen the driveway for highway safety reasons. I believe the proposal is not strictly required for such reasons, although I would be happy to take advice on this.

We consider the whitebeam to be an important street tree and a significant constraint to the scheme. The standard construction method to widen the driveway would essentially remove a section of the rooting area currently available to the tree, which is already constrained by the infrastructure, therefore the incursion is likely to have a significant detrimental impact to the whitebeam.

I would like to add, the incremental erosion of soft verges has a negative environmental impact in the long term and is not generally encouraged.

For the reasons set out above, we consider the proposals are contrary to the British standard 5837:2012.

Following clarification on the tree teams initial comments they confirmed:

While I believe the impact to the RPA is significant and the works detrimental to the tree, I don't think the works would necessitate removal of the tree, at least not initially.

Damage such as root loss, soil compaction etc. often takes time to become apparent, in many cases, we would look to increase the monitoring frequency of a tree following such an event.

The main issue arboriculturally is the application does not carry a robust reason for the incursion into the RPA, which is contrary to the British standard

Unfortunately, I don't think a 'no dig' solution would work in this case due to the existing ground levels.

I have measured the RPA and the calculated area takes up all of grassed area up to the existing crossover, so a smaller area would still encroach the RPA. Due to the growth constrains around the tree (kerbs, tarmac etc), the soil should remain undisturbed to give the tree the best chance at growing in a harsh environment. I wouldn't like to encourage a smaller area, as the erosion of the soft verges to make room for vehicles would be prejudicial to the environment in the long term.

Summary of Representations

2no. representations have been received in objection to the proposal. The issues raised are summarised as follows

- The addition of the bus stop to the verge outside 183 to 189 Temple Park Road resulted in yellow line restrictions. These restrictions make it an offence to wait, drop off or park from the centre of the highway to the property boundaries, including any cross overs, grass verge and pavement.
- The applicants have had various contractors and family members working on renovating the property. Individuals have parked both on the grass verge and in the bus lay-by. We are concerned this would continue and the verge crossing to come an extended parking area outside the property.
- The council's website has guidance for dropped kerbs and crossovers and would hope that the rules would from part of any conditions attached to the application should it be approved. These rules laid down by highways define their expectation governing a successful application and what might constitute a breach of such planning permission being approved. These are;

  "The construction of a vehicle crossing does not give the occupier of the premises any particular rights, except to drive across the footway to gain access to his / her

property with a private or light goods motor car, the crossing itself remains part of the public highway." And

"No part of a vehicle parked within your property may project on to or over the highway. The crossing may not be used as a parking area and no part of it is exempted for the purpose of footway parking."

- Our concerns relate to:
    - Ongoing illegal parking.
    - Public safety issues for those using the footpath, bus stop/bus shelter and bus drivers caused by vehicles parking in the bus stop/on the verge.
    - The current cross over is a shared facility between No 183 and 185 but is often taken up by a parked vehicle.
    - The scale of extended crossing is excessive creating an access 6.3m wide for No 185. This is coincidentally the length of a large box type van.
    - The drawings are conflicting and misleading to the actual scale of development.
    - The roots of the exiting tree were potentially compromised where the bus shelter is and the new, overly extensive development would further compromise the tree roots and reduce water to serve the root system.

Relevant planning policy

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permission must be determined in accordance with the adopted development plan, unless material considerations indicate otherwise.

The statutory development plan comprises the Council's adopted Local Development Framework (LDF) development plan documents. Those LDF documents of relevance to this application comprise of the Core Strategy 2007 and a Development Management Policies Development Plan Document (DPD) 2011.

The following policies of the South Tyneside Local Development Framework Core Strategy are relevant to this planning application:

- DM1 - Management of Development
- DM7 - Biodiversity and Geodiversity Sites
- LDF CS EA3 - Biodiversity and Geodiversity

The following policies and guidance are also relevant to this planning application:

- SPD9 - Householder Developments

Although the Publication draft South Tyneside Local Plan is now at a more advanced stage of preparation having been subject to two statutory consultation periods, Borough Council decided on 5 September 2024 not to endorse submission of the Local Plan to the Secretary of State for Examination. As such only negligible weight can be afforded to relevant policies at this time and less weight than would have been afforded in the period between completion of the Regulation 19 consultation in March 2024 and prior to Borough Council's decision. For this reason, the report does not seek to identify specific policies from this Plan.

National planning policy is also a material consideration in determining this planning application. Relevant national policy comprises the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG), the National Design Guide and the National Model Design Code.

The following paragraphs of the NPPF are relevant to this planning application:

- 115
- 116
- 136
- 187

Assessment

The key issues in the assessment of this planning application are as follows:

- Impact on Highways Safety
- Impact on Trees
- Impact on visual and residential amenity
- Biodiversity net gain
- Other matters

Impact upon highway safety

Paragraph 115 of the NPPF states that development should achieve a safe and suitable access for all users. Paragraph 116 of the NPPF advises 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 would be severe.

Policy DM 1 (G) of the South Tyneside LDF states that the Council will ensure that the impact of the development is acceptable in relation to highway capacity and safety or includes proposals to mitigate any adverse impacts.

The Highways Authority has been consulted on this application and have considered whether the proposal will result in any adverse impact on the safety of all users of the highway (pedestrians, vehicle users, cyclists, etc), the highway network or highway assets. The Transport Development officer has confirmed that they are aware of concerns from the Tree Team regarding the tree in the highway verge and have confirmed that they would not wish for the tree to be removed to facilitate a wider access to the public highway.

Neighbouring residents have raised concerns regarding the proposals impact on users of the footway, bus stop and the continuation of indiscriminate parking. They have also raised the matter of safety for users of the footway and bus stop/shelter. The Transport Development officer has considered the matters and has raised no objections on this basis.

As summarised above, a representation received also references a page on the council's website which advises about the process of applying for a dropped kerb and the general principles of how the crossing should be used. This guidance is set out the 'apply for a dropped kerb' page of the Council website (see here). The neighbour states that they would expect these 'rules' on the website to be conditions of any planning permission should it be granted. The 'rules' referred to are as follows:

- The construction of a vehicle crossing does not give the occupier of the premises any particular rights, except to drive across the footway to gain access to his / her property with a private or light goods motor car, the crossing itself remains part of the public highway and;

- No part of a vehicle parked within your property may project on to or over the highway. The crossing may not be used as a parking area and no part of it is exempted for the purpose of footway parking.

Whilst the concerns about indiscriminate parking and the dropped kerb 'rules' set out on the councils website are noted, planning legislation cannot control the parking of vehicles on a public highway. It is also considered that the inclusion of conditions, as detailed above, would not meet the relevant tests of NPPF paragraph 57, which states planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. . The matter of indiscriminate parking/unsafe parking would be a matter that should be reported to the police and/or the local highway authority.

Given the above, it is considered that the proposal would not be harmful to highways safety and as such would comply with Policy DM1 (G) of the Local Development Framework.

Impact on Trees & visual amenity

Trees and landscape features make a significant contribution to the character and appearance of the urban area and to nature conservation. Trees in parks and public open spaces, in private gardens and grounds and on streets and highways are all significant in this respect.

Local Policy DM1 (C) seeks to protect exiting soft landscaping, including trees and hedges, where possible or provided replacement planting where necessary.

Paragraph 136 of the NPPF sets out that 'trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decision should ensure that…. Existing trees are retained wherever possible.' Likewise, paragraph 187 of the NPPF also highlights that importance of protecting existing trees.

The application site forms part of the grass verge on Temple Park Road which has a number of mature trees located within the verge which forms a visually attractive tree lined street. The Councils Tree Team have been consulted on the application and have confirmed that the proposed widened crossing towards the Whitebeam street tree creates a significant incursion into the Root Protection Area (RPA) as defined by the British Standard 5837:2012. In accordance with British Standard, the default position for any new development should be outside of the RPA of retained trees, unless there is an overriding reason for the incursion, such as for highways safety reasons. In this case no justification has been given for the widened crossing intruding into the RPA.

The Whitebeam tree is considered to be an important street tree and a significant constraint to the proposed widening of the existing verge crossing. The standard construction method to widen the driveway would remove a section of rooting area currently available to the tree, which is already constrained by the infrastructure around the site (footpath, carriageway, bus stop). This incursion into the RPA is likely to have a significant detrimental impact to the Whitebeam. For these reasons, it is considered that the proposals are contrary to the British Standard 5837:2012.

In providing additional information and clarification to the planning case officer, the Tree Team have confirmed that, due to existing ground levels, a 'no dig' solution to undertake the proposed works would not be suitable and achievable in this case. The planning officer also questioned whether a revised proposal to reduce the width of the extended crossing below the additional 3.6m currently being proposed, would be acceptable, however the Tree Team have confirmed that they have calculated the RPA area which takes up all the grass verge up

to the existing crossover, so a smaller area would still encroach into the RPA. Due to the existing site restraints (footway, bus shelter and existing crossing) the RPA of the tree is already significantly restricted, and the extended crossing would take up nearly all of the reaming RPA for the tree.

It is therefore considered that the proposal would be harmful to the tree within the highway verge without complying with the British Standard for works impacting trees with consequential impacts on the visual amenity of the area arising from such harm. The proposal would therefore be contrary to the NPPF, paragraphs 136 and 187 and South Tyneside LDF policy DM1 (C).

Biodiversity Net Gain

The application is for an extended verge crossing. In terms of biodiversity net gain, the development would fall under the de minimus exemption re the biodiversity net gain requirements (exemptions) Regulation 2024 as it would affect an area of less than 25m2.

Therefore, on the basis of the above, the development would be in accordance with Policy EA3 of the LDF Core Strategy and the NPPF in respect of Ecology.

Other matters

In deciding whether to grant planning permission the Council must have due regard to the 3 equality aims contained in Section 149 of the Equality Act 2010 (the public sector equality duty). A preliminary assessment of the potential equality impacts of any grant of planning permission in this case has been undertaken. There are no apparent equality impacts of the proposed development which give rise to the need to undertake a more detailed equality impact assessment.

The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Conclusion

Having regard for the above it is considered that the proposal would result in harm to the tree adjacent to the application site and would not comply with the British Standard and Policy DM1 Management of Development (part C) of the South Tyneside Local Development Framework. As such the scheme is recommended for refusal.

Recommendation

Refuse Permission

Reasons for Refusal

1 The Local Planning Authority consider the proposed works to widen the existing vehicular access crossing would be contrary to British Standard:3998 2010 “Tree Work - Recommendations”, through incursion, without robust justification, of the widened crossing into a sizeable portion of the root protection area of a Whitebeam tree located within the highway verge adjacent to the application site resulting in

harm to the health and future retention of this street tree which in turn would be harmful to the visual amenities of the locality . Therefore, the proposal would be contrary to Policy DM1 (C) of the South Tyneside Local Development Framework and paragraphs 136 and 187 of the National Planning Policy Framework.

List of plans etc. for standard note on decision

Plan Reference
Access Crossing Layout Drg No 32-1 received 24/10/2024
Existing and Proposed Layout received 19/11/2024
General Layout Plan received 19/11/2024
Proposed Layout Drg No 32-2 received 22/11/2024

Case officer: Samantha Gallagher

Signed: S Gallagher

Date: 21/01/2025

Authorised Signatory: G.Horsman

Date: 22/01/2025