The Planning Inspectorate

# Appeal Decision

Site visit made on 29 November 2016

**by David Troy BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 December 2016**

**Appeal Ref: APP/P1045/D/16/3157408**
**17 Belle Vue Road, Ashbourne DE6 1AT**

- 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 Mrs Alison McHugh against the decision of Derbyshire Dales District Council.
- The application Ref 16/00268/FUL, dated 13 April 2016, was refused by notice dated 13 June 2016.
- The development proposed is lowering the front wall and excavating part of the garden to enable parking for two vehicles and construction of a bike shed and wheeley bin store.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are the effect of the development on (i) the character and appearance of the Ashbourne Conservation Area (CA) and (ii) highway safety.

## Reasons

*Character and appearance*

3. The appeal site forms part of the garden area at the front of No.17 Belle Vue Road (No.17), a detached two storey dwelling setback from the road with pedestrian access only onto the highway. The appeal site is elevated and the front garden is retained behind a high stone boundary wall. The appeal site falls outside but directly adjoins the CA to the south of the site.

4. The neighbouring properties comprise of a dense mix of two-storey detached and terraced properties. The road in the vicinity of the appeal site is narrow and, due to the close proximity of the high boundary walls and the front elevation of the buildings to the back of the footpath on both sides of the road there is an overall sense of enclosure. Whilst there is some variation in the width of the road created by the access points adjacent to the appeal site, the height of the retaining walls to the northern side of the road at the back of the narrow footpath reinforces the sense of enclosure. These features give the area a strong unifying character and appearance that are recognised as one of the key characteristics of this part of the CA in the Ashbourne Conservation Area Appraisal 2008 (CAA).

5. The proposal would involve the formation of a new vehicular access and excavation work to create two off-street parking spaces with a new brick retaining wall and a bike and bin store. It involves the removal of about 7m of the existing stone boundary wall and the construction of a low stone wall with an integral pair of remote controlled gates along the front of the site.

6. The removal of the high boundary wall would create an uncharacteristic gap in the generally enclosed frontage. Such positioning would compromise the sense of enclosure in the area. These shortcomings would be exacerbated by the proposal's prominent position, which would be visible from a number of public vantage points along Belle Vue Road. As such, I consider the proposal, by virtue of its siting and design, would result in an incongruous and out-of-keeping addition that would adversely harm the character and appearance of the CA.

7. Given the modest scale of the development, the harm to the CA is less than substantial but in accordance with paragraph 134 of the National Planning Policy Framework (the Framework), that harm should be weighed against any public benefits to the proposal. I note the appellant's comments regarding the benefits arising from tidying up the area, improving the visibility for traffic and pedestrians leaving the site and the adjacent business units and helping to address the local traffic flows and parking issues in a congested part of the town. I find though insufficient public benefits to offset the identified harm to which I attach significant weight.

8. I have considered the appellant's comments regarding the appeal site being located outside the CA on a wider section of the road and the design of the parking scheme being sensitive to the character of the area. However, I consider this would not outweigh the adverse harm outlined above. I have considered the appellant's comments about the family's personal circumstances and the benefits to the family arising from the proposed parking area. However, such circumstances are not a material consideration to which I can attach significant weight in making this decision.

9. I have noted the appeal decision dismissed at No. 15 Belle Vue Road [1] pointed out by the appellant. However, whilst this has similar characteristics to the appeal scheme, it took place some time ago in a different policy context. I have further noted the other developments in the area drawn to my attention by the appellant. The developments along Belle Vue Road, Union Street and Green Road are not directly comparable to the appeal scheme and have different development and locational characteristics. On the basis of the limited evidence provided I am not convinced that their circumstances are compellingly similar to the appeal proposal. I therefore accord them limited weight as precedents in this case.

10. Consequently, I conclude that the development would harm the character and appearance of the CA. It would conflict with the design and conservation aims of Policy NBE21 of the Derbyshire Dales Local Plan 2005 (LP) and the CAA as set out above. These policies and guidelines, amongst other things, seek to ensure that development proposals within or adjacent to a CA protect or enhance the character or appearance of the area.

[1] APP/P1045/A/04/1168464

11. In addition, it would not accord with the Framework that development should seek to secure a high quality of design and conserve heritage assets in an appropriate manner (paragraph 17) and take into account the desirability of making a positive contribution to local character and distinctiveness in conserving and enhancing the historic environment (paragraph 131).

*Highway safety*

12. The new vehicular access and parking area is located off a narrow section of Belle Vue Road where a 30 mph speed limit applies. There are double yellow lines in front of the properties along both sides of the two-way section of the road and a traffic calming speed hump immediately adjacent to the appeal site.

13. For this class of road and speed limit, the Derbyshire County Council Local Highway Authority (LHA) recommends a suitable exit visibility splay that would require sightlines across third party land in both directions that would need to be secured in perpetuity with the relevant landowners. In addition, any fronting walls, gates and gate posts would need to be no higher than 1.05m in height within 2.4m of the carriageway edge. The LHA have objected as the proposal does not meet the requirements for the visibility splay and does not have adequate turning provision within the site.

14. The appellant, however, has questioned the visibility and the turning area requirements, in light of the existing access arrangements provided at adjacent properties. However, these accesses are either set back from the back edge of the carriageway allowing vehicles to move clear of the highway, or appear to have been provided some time ago when different standards applied. Nevertheless, I acknowledge that the LHA advice is only guidance to assess more objectively the impact of the proposed development on highway safety.

15. Paragraph 32 of the Framework states that decisions should only be prevented or refused on transport grounds where the residual impacts of development are severe. In view of the scale of development, it is evident that the impact of the development on highway efficiency would not be severe. However, paragraphs 32 and 35 of the Framework go on to state that decisions should also take into account whether safe and suitable access to the site can be achieved for all people.

16. From the evidence provided and from my observations on site, I consider that this section of Belle Vue Road is neither safe nor suitable to safely cater for the traffic movements from the proposal, due to the current road conditions, the configuration of the site and the restricted visibility from the proposed access caused by an existing boundary wall on third party land to the east of the site. The access arrangements would result in vehicles reversing into and out of the site at a point where the road width and the emerging visibility are severely restricted and as such would have an adverse effect on highway safety.

17. I have considered the appellant's comments regarding the design of the parking scheme addressing the issues raised in the pre-application advice of the LHA and the lower traffic speeds outside the appeal site due to the traffic calming measures. The Council, however, are not bound by the officer's and LHA pre-application advice in making their final decision and these factors do not overcome the adverse effects outlined above.

18. Consequently, I conclude that the proposal would have an adverse effect on highway safety. It would conflict with policy TR1 of the LP which seeks to ensure development would be served by safe access with appropriate visibility. In addition, it would not accord with paragraphs 32 and 35 of the Framework, which seeks to ensure that a safe and suitable access to the site can be provided for all people and that a safe and secure layout can be achieved which minimises the conflicts between traffic and cyclists or pedestrians.

**Other matters**

19. I have noted the support for the proposal from a local resident on the basis of the benefits to the parking, traffic and improved visibility in front of the properties. However, these matters are addressed above.

20. I have also noted the objections from the Town Council and the Conservation Advisory Forum to the proposal. However, in light of my findings of harm to the character and appearance of the CA and highway safety, there is no necessity for me to consider these matters further.

**Conclusion**

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Troy*

INSPECTOR