



Appeal Decision

Site visit made on 1 August 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 16 August 2017

Appeal Ref: APP/E2340/W/17/3174109

49 Hibson Road, Nelson, Lancashire BB9 0AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Dr Zahid Mahmood Dabir against the decision of Pendle Borough Council.
 - The application Ref 16/0379/FUL, dated 18 May 2016, was approved on 14 November 2016 and planning permission was granted subject to conditions.
 - The development permitted is the change of use of care home to an eye clinic and medical centre and formation of a car park.
 - The condition in dispute is No 4 which states that: *"Notwithstanding any indication on the approved plans there shall be no vehicular access to the car park from High Street. The development shall not be commenced unless a scheme for the provision of vehicular access directly from Cobden Street, including a revised car parking layout, has been submitted to and agreed in writing by the Local Planning Authority. The use hereby approved shall not be commenced unless and until the access and car park have been surfaced, drained and laid out in accordance with the approved details. The car parking spaces and manoeuvring areas shall thereafter be maintained free from obstruction and available for car parking and turning purposes."*
 - The reason given for the condition is: *"In the interests of highway safety."*
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. The condition in dispute relates to a planning permission granted for the change of use of a care home to an eye clinic and medical centre and formation of a car park. The submitted plans propose that the access to the car park would be off High Street. The disputed condition would provide for access to the car park to be taken from Cobden Street only. The appellant seeks removal of the condition to enable access to the car park to be taken off High Street in the position as shown on the plans submitted with the application.
3. The main issue is whether the disputed condition is necessary or reasonable in the interests of highway safety.

Reasons

4. The appeal site comprises a rectangular area of vacant land with frontage on three sides to Cobden Street, Cambridge Street and High Street (on which the existing site access is located). The proposal would involve the formation of a car park with 18 spaces with access to be taken off High Street in a position

- close to the junction with Cobden Street. The proposed access, which formerly served a garage court that previously existed on this part of the appeal site, would be widened to 6m in the vicinity of the junction with High Street.
5. High Street is a narrow cul-de-sac road leading to a garage court. There is no pedestrian footpath on the eastern side, which adjoins the appeal site, and instead there is planted verge on this side of the street. The western side has an adequately wide pedestrian footpath which has a number of bollards along its length. These are positioned close to the edge of the road and extend from the junction with Cobden Street to approximately the junction of High Street with Cambridge Street.
 6. High Street has insufficient width to enable two vehicles to pass with ease. In addition, the presence of the bollards sited on the footpath in the vicinity of the existing access to the appeal site prevent vehicles from mounting the kerb to facilitate additional passing width. I observed a commercial vehicle using High Street at my site visit which occupied the majority of the width of the road thereby preventing other vehicles to pass. The width of the road was also observed to be reduced by vehicles that park, albeit subject to careful manoeuvring on the road, between the bollards.
 7. Given its cul-de-sac nature and the limited number of properties served off it, High Street currently appears to be lightly trafficked. Although I have no evidence of the likely vehicular movements that would be generated by the proposed development and that would use the proposed car park, given the nature of the use as a medical facility it would not be unreasonable to suggest that there would be a number of patient appointments throughout the day involving the use of the car park. As such, a considerably higher number of vehicular movements are likely to occur on the northern part of High Street from that which currently occurs.
 8. Owing to the elevated ground levels of the appeal site above Cobden Street and existing mature vegetation along this frontage, there would be little or no inter-visibility between a vehicle exiting the car park and vehicles on Cobden Street who may be wishing to turn onto High Street. Consequently, in circumstances where a vehicle that has exited the proposed car park, or is travelling north on High Street, encounters a vehicle turning into the street from Cobden Street there would be insufficient width for these to pass. Such situation would likely require reversing movements on one or both of these roads to enable the vehicles to pass. These movements on the public highway would be detrimental to the interests of highway safety.
 9. Although a proposed eye clinic would have frontage to Hibson Road, one of the main access points to the building appears to be from the car park. Therefore, the possibility of pedestrians walking from and to the car park via High Street cannot be discounted. As there is no pedestrian footway on the side of the road in the vicinity of the proposed access, pedestrians would have to either walk on the road or cross the road to the footpath on the western side of High Street. Such pedestrian movements would occur in close proximity to the junction with Cobden Street and also in circumstances where pedestrians would have little inter-visibility of vehicles turning into High Street from Cobden Road and vice-versa. Consequently, there is a risk of pedestrian and vehicular conflict occurring on the road in the vicinity of the junction. This would have an unacceptable effect on pedestrian safety.

10. The Council has expressed concerns that the side gable at No 17 Cobden Road compromises visibility for pedestrians crossing the junction of High Street and Cobden Street. However, there is an adequately wide pedestrian footpath along the side gable of the property with High Street and its frontage with Cobden Street. Consequently, there is sufficient opportunity for pedestrians to observe any vehicles on High Street from the safety of the footpath before crossing the junction. As such, I do not consider that the relationship of No 17 with High Street would cause any pedestrian/vehicle inter-visibility constraints of an extent that would compromise pedestrian safety.
11. The appellant has expressed concern that any proposed access to the site off Cobden Street would be sited too close to the access to the driving examination centre on the north side of the street. In such circumstances the appellant considers that the close proximity of two junctions, albeit on opposite sides of the street, would create vehicular conflict to the detriment of highway safety. However, Cobden Street in the vicinity of the appeal site is relatively straight and wide with pedestrian footpaths on both sides. It is not uncommon, nor unexpected from a driving perspective, for access points on opposite sides of a road in urban areas to be positioned in close proximity to each other. Given the circumstances in this case where there are no significant physical impediments to vehicle inter-visibility, I do not consider that an access to the appeal site off Cobden Street would be detrimental to the interests of highway or pedestrian safety.
12. I have carefully considered the views of Lancashire County Council, in its capacity as highway authority, in raising no objections to the proposed access off High Street, subject to conditions, against my findings above. The narrow width of the road; the lack of pedestrian facilities; the proximity of the access to the junction of High Street with Cobden Street and the likely increase in vehicular movements using this part of High Street are all contributory factors that lead me to have a contrary view to that of the highway authority. I find that, on balance, the proposed access position would have a detrimental effect on highway and pedestrian safety.
13. I therefore conclude that the disputed condition is reasonable and necessary in the interests of highway and pedestrian safety. Without the condition the proposal would be contrary to Policy ENV 4 of the Pendle Local Plan Part 1: Core Strategy (2015). This policy, amongst other things, requires that proposals for new development should have regard to the potential impacts they may be caused to the highway network, particularly in terms of safety and the potential to restrict free flowing traffic.

Conclusion

14. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR