

Appeal Decisions

Site visit made on 14 October 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 18 October 2019

Appeal A

Appeal Ref: APP/A4710/D/19/3236817

149 Halifax Road, Brighouse HD6 2EQ

- 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 Helen Marsden against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/00273/HSE, dated 28 February 2019, was refused by notice dated 3 July 2019.
 - The development proposed is dropped kerb and parking space.
-

Appeal B

Appeal Ref: APP/A4710/D/19/3236818

151 Halifax Road, Brighouse HD6 2EQ

- 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 Mark Nicholl against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 19/00380/HSE, dated 27 March 2019, was refused by notice dated 3 July 2019.
 - The development proposed is dropped kerb and parking space.
-

Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural Matters

3. I have adopted the development descriptions set out on the Council's decision notice and subsequently adopted in the appeal submissions as I consider them to be notably more concise and accurate in describing the proposals than those initially set out. I am satisfied that neither appellant, nor the Council, would be disadvantaged by my doing so and I have determined the appeal accordingly.
 4. The appeal properties are adjoining halves of a semi-detached property fronting on to the A644 Halifax Road. The proposals were submitted to the Council as two separate planning applications, each proposing a dropped kerb and vehicular access to the front of the house. Each proposal relies upon land beyond its application site boundary and thus within the adjoining property to provide manoeuvring space and for access and egress.
-

5. I am satisfied that whilst the proposals proceed under separate appeals and relate to separate appeal sites they can nonetheless be dealt with together for the purposes of my decisions due to their proximity to each other and the appellants' intended inter-relationship between and reliance of one upon the other. Where necessary I will differentiate between the appeals by specific reference to one or the other.
6. The application forms state that neither appeal proposal has commenced, although the Council's officer reports note that the boundary walls at the front of both properties had been removed and materials delivered. At the time of my visit to the site I saw that the front garden areas of the two properties had been laid to hard surface with a planting border abutting the front of the house. I have, for the avoidance of doubt, determined the appeal on the basis of the submitted plans and details and not on the basis of the works carried out.

Main Issue

7. The main issue in relation to both appeals is the effect of the proposals on highway safety.

Reasons

8. The appeal properties are one of four pairs of semi-detached dwellings along a short stretch of Halifax Road, each pair separated from the next by a narrow gap. In the case of No. 151 (and No. 153) this gap leads through to rear gardens and provides access to a garage, parking and turning area at the rear of No. 151. Although No. 149 has a similarly proportioned gap between it and No. 147, there is a clear difference in ground levels between the two and, whilst access to the rear exists, it is in the form of a footpath rather than a shared drive.
9. Due to the relatively narrow nature of each of the appeal plots, I share the Council's concern that there would be insufficient space within each to manoeuvre so as to be able to leave and enter Halifax Road in a forward direction. Halifax Road was, I saw during my visit to the sites, a busy road. Given the nature of the boundary walls and vegetation at the fronts of neighbouring properties and the slight curve and gradient in the road a short distance to the south which, together, restrict visibility in both directions, an inability to leave and enter the highway in this manner would result in conflict with other road users which would be detrimental to highway safety.
10. However, each of the proposals seeks to rely on land within the adjoining half of the semi-detached plot to facilitate sufficient manoeuvring space. A swept-path analysis in respect of both properties attempts to demonstrate the practicalities of how this would be achieved. It is, as far as it goes, reasonably successful in demonstrating how access and egress in a forward direction to each of the properties could be achieved. It also demonstrates how it would be possible to do so even with another vehicle parked at the neighbouring property.
11. It does not however model every direction of access and thus does not demonstrate access to No.149 from the north or to No. 151 from the south. Nor does it appear to allow for situations when there might be a second car within each of the plots being accessed. In both of these instances, the relative lack of width within each of the garden plots, and indeed cumulatively,

is such that I am not persuaded that the proposals would allow forward access and egress to each property in all circumstances. The indicated green inset on the site layout plans would further impinge upon the available parking and manoeuvring space and would further compromise the range of movements possible within the proposed parking forecourt area.

12. Crucially however, each appeal proposal is dependent upon land beyond each application site boundary to provide turning and manoeuvring space. Even if I were to conclude that the swept-path analysis adequately demonstrates unimpeded forward access and egress to both properties from both directions, the applications are separate and I have no mechanism before me to be able to ensure that the development is carried out as one scheme, and subsequently maintained as such to ensure safe and convenient access. Nor, should I be so minded, am I persuaded that a planning condition placed on any approval would be reasonably enforceable so as to ensure both schemes are carried out and implemented.
13. Policy BE5 of the Replacement Calderdale Unitary Development Plan (2006) (RCUDP) states that, amongst other things, accesses should ensure the safe and free flow of traffic. For the reasons I have set out above, it has not been adequately demonstrated that the proposals would, or could, ensure the safe and free flow of traffic. Thus, the proposals are contrary to RCUDP policy BE5(i).
14. It is also evident from the limited swept-path analysis that access in the manner proposed would be reliant on the majority of the width of both properties' frontages providing access to the forecourt areas. This, the appellants argue, would improve visibility for neighbours and users of the Sycamore View junction. However, whilst it is likely that this area is most commonly used by the appellants as it lies directly outside their properties, this cannot be guaranteed and any benefit would be limited and sporadic.
15. In any event, I saw that intervening vegetation and stone wall structures on neighbouring properties, not to mention the possibility of cars parking between the junction with Sycamore View and the appeal properties, would continue to have a significant impact on visibility in a northern direction from this junction and more so than potential gaps in parked vehicles further along Halifax Road. This aspect of the appeal proposals would not result in a material improvement in this respect.
16. I have noted the appellant's¹ stated desire to switch to an electric vehicle and that the proposal would future proof the property by facilitating convenient charging of an electric vehicle. Whilst this would weigh in support of the proposal, it would only attract limited weight and would not be sufficient to overcome the harm that I have identified above.
17. I saw, and was also referred to, other driveway accesses to nearby properties on Halifax Road. However, these examples exhibited different access arrangements to those proposed in the current appeal cases, nor do I have the full details of those proposals before me. I have, in any event, determined the appeals on the basis of the available evidence and on their own merits and so I give the presence of other accesses limited weight in my consideration of the matter.

¹ Paragraphs 6.11 – 6.12 – Appellant's Statement of Case in respect of No. 149 (APP/A4710/D/19/3236817)

18. The Council are concerned that the proposal would displace parking in an area where on-street parking can be in high demand. I accept that there is no off-street parking associated with Lane Head Park, but I saw that alternative parking is available elsewhere along Halifax Road, and on less busy streets such as Garden Road and other streets on the southern side of the park. There may be times of the day (and year) when usage of the park is greater than others, but I am not persuaded that the loss of on-street parking on Halifax Road that would result from these proposals would be a determinative factor in this instance.

Conclusion

19. For the reasons set out, and having considered all other matters raised, I conclude that the appeals should be dismissed.

Graeme Robbie

INSPECTOR