
Appeal Decision

Site visit made on 17 March 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2020

Appeal Ref: APP/R4408/C/19/3241024

30 Huddersfield Road, Barnsley S75 1DL as shown edged red on the attached plan marked "EN1"

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Martin Nietrzebka against an enforcement notice issued by Barnsley Metropolitan Borough Council.
 - The enforcement notice was issued on 11 October 2019.
 - The breach of planning control as alleged in the notice is the creation of a vehicular crossing onto a classified road.
 - The requirements of the notice are (i) reinstate a permanent boundary wall in materials similar to those that were in situ at a similar height prior to the development which will prevent motor vehicle access over the verge to the front garden of the property and (ii) remove any related building materials from the land, including those that are obstructing the public footpath.
 - The period for compliance with the requirements is 2 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal on ground (a) and the deemed planning application

2. The appeal is made on ground (a) of s174 of the Town and Country Planning Act 1990 (as amended) that planning permission ought to be granted in respect of any breach of planning control which may be constituted by the matters stated in the notice. The breach of planning control relates to the creation of a vehicular crossing onto a classified road serving 30 Huddersfield Road which is an end of terrace dwelling.

Main Issue

3. I have taken into account the reasons for issuing the enforcement notice and the main issue is the effect of the breach of planning control on highway safety and the free flow of traffic on Huddersfield Road.

Reasoning

4. As part of my site visit, I was able to observe the volume and frequency of traffic on the A635/Huddersfield Road which fronts the appeal property.

Indeed, there was a steady flow of traffic on this classified road leading to the centre of Barnsley. I was able to see that the subject vehicular access, which is to the front of the terraced dwelling, requires the use of a pedestrian dropped kerb/surface. This faces an identical pedestrian dropped kerb/surface on the other side of Huddersfield Road.

5. I note that there is a right turn filter lane in very close proximity to the appeal site which leads into Cockerham Lane. There are no on-site turning facilities within the frontage of the appeal site and consequently it is necessary for vehicles to either reverse into or out of the site. In this context, and when such manoeuvres take place, I consider that there would be potential for unacceptable conflicts between vehicles using Huddersfield Road. Indeed, for anyone travelling in a private motor vehicle immediately behind any vehicle(s) wishing to turn right into Cockerham Lane, reaction time in respect of a vehicle reversing into or out of the appeal site would be particularly limited. In this sense, I consider that there is a real possibility of an accident occurring on this part of Huddersfield Road if the development were allowed to continue.
6. In addition to the above, I am concerned that there is potential for conflict between pedestrians using the dropped crossing/pavement and vehicles reversing out of the site. All pedestrians, including those who may be visually impaired, would not necessarily be aware of reversing vehicles. Furthermore, and owing in particular to the provision of high stone pillars, users of the pavement would not always be visible to those reversing out of the site. For these reasons, I consider that there is the possibility of pedestrians being injured as a result of this development.
7. The above harm is compounded by the fact that the dropped kerb is not wide enough to accommodate all vehicular movements. Indeed, the dropped kerb is quite narrow and so some bumping up and down at least part of the kerb edging is/would be necessary. This would therefore make reversing movements slower and more problematic when leaving Huddersfield Road and would also have the effect of unacceptably interrupting the free flow of traffic.
8. The Council has indicated that the dropped kerb does not comply with the standards required to support the weight of vehicles and that use of it by vehicles may undermine the integrity of the highway/pedestrian walkway. I do not have any objective evidence to support this claim, but, in any event, it has not been necessary for me to consider such a matter any further given my other findings above.
9. For the collective reasons outlined above, I conclude that the breach of planning control has an unacceptable and unsafe impact on the use of Huddersfield Road for both pedestrians and drivers alike. Consequently, the development does not accord with the highway safety requirements of Policy T4 of the adopted Barnsley Local Plan 2019 and paragraph 109 of the National Planning Policy Framework 2019.

Other Matters

10. I acknowledge the reasons why the appellant wants to park directly outside his house and do not doubt that there have been some issues in the past in respect of damage to vehicles and other anti-social activities. Nonetheless, this does not in itself justify allowing development which is harmful in highway safety terms.

11. I note that the appellant has previously parked on Pollitt street which is close to the appeal site. He comments that *"we drive onto it and when we cannot turn around, we are forced to reverse out on to the main road which is illegal, and not safe for me or other people on the road or street"*. As part of my site visit, and acknowledging that this was only a snapshot in time, I was able to see that it is was difficult to turn around in Pollitt Street and that there were only a limited number of on-street car parking spaces available. Nevertheless, I was also able to see that there were some other streets close by, in particular Kensington Road, where on-street car parking spaces were available.
12. I have determined this appeal on the basis of whether it accords with Policy T4 of the LP and the Framework in terms of ensuring that there are no unacceptable highway impacts. The existing highway/car parking conditions in Pollitt Street do not justify allowing unacceptable development at the appeal site and, in the case of the appeal development, it would always be necessary to either reverse into or out of the front of No 30 Huddersfield Road. Such unsafe manoeuvres would not be necessary if the appellant parked in other streets such as Kensington Road.
13. I note that a member of the family is waiting for surgery and that it would be more convenient to be able to park closer to the dwelling. However, I have been provided with very little detail about the nature of the surgery, timescales or indeed what effect this might have on long term mobility. Nevertheless, in this case a refusal of planning permission is a proportionate and legitimate response to the need to ensure that the development does not unacceptably harm matters of highway safety in the public interest.
14. None of the other matters raised alter or outweigh my conclusion on the main issue.

Conclusion

15. For the above reasons, I conclude that the ground (a) appeal fails. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

D Hartley

INSPECTOR