The Planning Inspectorate

# Appeal Decision

Site visit made on 22 March 2021

**by L Wilson BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 April 2021**

**Appeal Ref: APP/W4705/W/20/3263944**
**51 - 53 Broster Avenue, Keighley, Bradford, Yorkshire BD22 6JE**

- 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 Mazhar Ali against the decision of City of Bradford Metropolitan District Council.
- The application Ref 20/02868/FUL, dated 1 July 2020, was refused by notice dated 15 October 2020.
- The development proposed is provision of 2 no, two-bedroom dwelling flats, located above a single storey shop and convenience store.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:

   i. The effect of the proposed development upon the living conditions of the occupiers of 57 Braithwaite Avenue and 47 and 49 Broster Avenue, having regard to outlook and light; and

   ii. Whether or not it has been demonstrated that the proposal would have an acceptable effect upon highway safety, having regard to the proposed parking spaces.

## Reasons

*Living conditions*

3. The appeal site relates to an existing single storey convenience store with a flat roof. The development seeks consent to add an additional storey above the existing building and to extend the ground floor of the convenience store.

4. No 57 is situated to the west of the appeal site and comprises a two-storey semi-detached property with a two-storey side extension. No 57 sits higher than the appeal site. The side elevation of the property, facing the appeal site, contains no windows and the rear garden abuts the appeal site.

5. The proposed development would significantly increase the height and massing of the existing single storey building which would extend along most of the boundary shared with No 57. Although none of No 57's windows directly face the appeal site, the rear windows are in close proximity. I understand from the evidence presented that several windows serve habitable rooms.

6. The combination of the proposal's height, scale and its proximity to the rear windows of No 57 would mean that the outlook from No 57 would be considerably compromised with the effect that the occupiers would feel hemmed in when looking out of their rear windows. It would also be uncharacteristic relative to the prevailing nature of the surroundings. For the same reasons, it would have an intrusive and oppressive effect upon users of No 57's modest garden. Thus, the scheme would have an overbearing impact upon the occupiers of No 57.

7. On account of the massing and height of the proposed extension and given the position of No 57 relative to the appeal proposal, the orientation of the sun, based on the evidence presented, the proposal would also result in the loss of sunlight and daylight reaching No 57's rear habitable rooms and garden, particularly in the morning.

8. Nos 47 and 49 are situated to the south of the appeal site and comprise a pair of semi-detached bungalows. To the rear of the bungalows is a communal outdoor space. The bungalows sit at a lower level than the convenience store and have rear elevation windows facing the appeal site. Based on the evidence before me, these windows serve habitable rooms including bedrooms.

9. The proposed development would significantly compromise the outlook from the rear windows of the bungalows due to the topography of the area, proximity to the rear windows and because of the height and massing of the extension. The scheme would result in an oppressive form of development which would create a claustrophobic feeling. The development would have an overbearing impact upon the occupiers of Nos 47 and 49.

10. I am not convinced that the development would adversely affect the communal garden area to a degree that would warrant planning permission being refused as the communal area is large and primarily to the front of Nos 47 and 49.

11. Given the siting of Nos 47 and 49 relative to the appeal scheme and the orientation of the sun, the proposal would not reduce levels of light to an extent that would materially reduce light reaching habitable rooms of Nos 47 and 49. The habitable rooms of Nos 47 and 49 would still receive adequate daylight and sunlight, and the scheme would not result in unreasonable overshadowing to these properties.

12. For those reasons, although the proposed development would not adversely effect the communal garden area nor result in unreasonable overshadowing of Nos 47 and 49, it would adversely affect the living conditions of the occupiers of No 57, having regard to outlook and light, and Nos 47 and 49 having regard to outlook. Accordingly, it would conflict with Policy DS5 of the Local Plan for the Bradford District: Core Strategy Development Plan Document (2017) (CS) which seeks to ensure, amongst other matters, that development proposals do not harm the amenity of existing residents. It would also not comply with the National Planning Policy Framework (the 'Framework') which requires new development to provide a high standard of amenity for existing users.

*Highway safety*

13. The appeal site is situated at the corner of Broster Avenue and Braithwaite Avenue, adjacent to a well-used roundabout. The store currently benefits from existing parking spaces which are accessed off Broster Avenue.

14. The Council state that the convenience store currently benefits from five customer parking spaces. In contrast the submitted drawings show that the store currently has six parking spaces, including a disabled space, and I observed that to be the case on my site visit.

15. The scheme proposes seven parking spaces. Two new parking spaces would be for the flats and would be accessed from Braithwaite Avenue. I observed on my site visit that there is currently a vehicular dropped crossing where these spaces are proposed.

16. The Council's highway engineer advises that based on the floor area of the shop and two flats the total number of parking spaces required would be between six and seven. They have also made representations to the effect that the existing parking spaces accessed via Broster Avenue are acceptable. There is no countervailing evidence before me in that regard. The existing spaces will, in practice, remain associated with the use of the building notwithstanding the extent of the red line boundary shown on the supporting plans.

17. The proposed flats in particular would result in an intensification of use of the site and greater demand for off-street parking. This is likely to result in a modest increase in vehicle movements. The new parking spaces would be situated extremely close to the roundabout. I note that the Council has highlighted one traffic accident has been recorded in the vicinity of the site in the last five years. However, no detailed evidence has been submitted to demonstrate the cause of this accident.

18. The submitted drawings do not accurately show the two new parking spaces. They do not clearly show the measurements of these parking spaces given the 2 metre new entrance porch extension and relationship with the footway and dropped kerb. The length is particularly vital in this location given the proximity of the roundabout and there is insufficient space to enter and exit the spaces in a forward gear. Thus, based on the evidence submitted, it is not clear whether the two new parking spaces comply with the minimum length of 5m, required by the Council. It is likely that vehicles would overhang the footway which would effect pedestrian safety adjacent to the roundabout. The appellant has therefore failed to demonstrate that the new parking spaces could operate in a manner that would not have an unacceptable impact upon highway safety.

19. Consequently, the scheme would conflict with Policies DS5 and TR2 of the CS which seek, amongst other matters, to ensure development proposals provide a safe environment. It would also not comply with the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

20. Even if appropriately sized parking spaces were to be implemented, as reasoned above they would be extremely close to the nearby roundabout (with those making use of them needing to reverse out into oncoming traffic). Moreover, appropriate provision of parking would be effectively a neutral consideration in my assessment of the case, rather than serving to outweigh the harm I have identified in respect of the first main issue.

**Conclusion**

21. The proposal would therefore conflict with the development plan and there are no other considerations that outweigh this conflict.

22. For the reasons given above the appeal should be dismissed.

*L M Wilson*

INSPECTOR