



Appeal Decision

Site visit made on 19 October 2021

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2021

Appeal Ref: APP/J4423/D/21/3282217

117 Machon Bank, Sheffield, South Yorkshire, S7 1GS

- 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 Nahim Khan against the decision of Sheffield City Council.
 - The application Ref: 21/00480/FUL dated 29 October 2020, was refused by notice dated 23 August 2021.
 - The development proposed is: "Demolish outbuildings, erect new extension for disabled relatives, form garage at street level and landscaping works".
-

Decision

1. The appeal is allowed, and planning permission is granted for: "Demolish outbuildings, erect new extension for disabled relatives, form garage at street level and landscaping works" at 117 Machon Bank, Sheffield, South Yorkshire, S7 1GS, in accordance with the terms of the application, Ref: 21/00480/FUL dated 29 October 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: 20/09/07/011 (Proposed Foundations); 20/09/07/012 (Proposed Street Level Plan); 20/09/07/013 (Proposed Ground Floor Plan); 20/09/07/014 (Proposed Roof Plan); 20/09/07/015 (East Elevation to Emily Road); 20/09/07/016 (Elevation to Patio, Long Section); 20/09/07/017 (North Elevations); and 20/09/07/018 (West Elevation).
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Main Issue

2. The one main issue is the effect of the proposed development on highway safety.

Reasons

3. The site comprises an end-of-terrace house with rear garden at the junction of Machon Bank and Emily Road. It is proposed to erect a partly sunken garage with doors in the boundary/retaining wall facing Emily Road. The proposal also includes a single-storey extension projecting from the rear elevation of the dwelling, and this would involve the demolition of an existing outbuilding.

4. I am satisfied that the extension would not materially harm the character and appearance of the area and the living conditions of neighbours. It would accord with saved Policies H14 and BE5 of the *Sheffield Unitary Development Plan* (UDP), adopted 1998, Policy CS74 of the *Sheffield Development Framework Core Strategy* (CS), adopted 2009, and the Council's *Supplementary Planning Guidance on Designing House Extensions* (SPG).
5. The Council's sole concern relates to the garage element of the proposal, saying the position of the garage doors immediately adjacent to the footway on Emily Road is unacceptable in highway safety terms due to restricted visibility for vehicles entering and leaving the garage, and the potential for conflict with pedestrians and other highway users.
6. However, an important material consideration in this case derives from the Council's recent approval of a comparable garage proposal at No 119 Machon Bank, directly opposite the appeal site (Ref: 20/03935/FUL). The garage doors in that scheme would also directly front the footway on Emily Road. Whilst this does not necessarily set a precedent, the two schemes are very similar in terms of their highway safety implications, and this is accepted by the Council.
7. Significantly, the Planning Officer's report for the approved application does not incorporate a response from the Highway Officer and concludes that: 'The development does not adversely affect highway safety'. However, in response to the appeal proposal the Highway Officer expressed strong highway safety concerns which the Council says could not simply be ignored just because they were not expressed or flagged up in connection with the approved scheme prior to its determination.
8. Furthermore, and only in relation to the appeal proposal, the Council raised concerns that the construction of the garage might compromise the structural integrity of the highway and refers to the statutory obligation to ensure that any necessary structural surveys and steps are taken before granting planning permission which involves works within or adjacent to a highway. Whilst it acknowledges that it may have been possible to secure a resolution to the structural stability concerns via a planning condition, the Council says the highway safety objections would remain and thus render the proposal unacceptable in principle. However, highway structural issues fall to be dealt with under other legislation and are not a valid material considerations to be addressed in the determination of a planning application and appeal.
9. At my site visit I noticed very high levels of on-street parking in the area, which hinders the free and safe movement of traffic along the streets. Due to the high-density layout very few properties in the area have, or can provide, off-street parking. In this context the appeal proposal would reduce the pressure for on-street parking, albeit to a modest extent. This is a benefit which I consider partly offsets the potential for pedestrian/vehicle conflict and attracts significant weight in favour of the proposal.
10. I accept that pedestrian/vehicle intervisibility for vehicles entering or leaving the garage would be less than ideal. However, on balance I consider this would not be to a degree that would be materially harmful on highway safety. As stated above, the Council's decision to allow a comparable scheme in very close proximity has also influenced my decision.

11. Overall, I favour a pragmatic approach and conclude that the proposal would not materially harm highway safety. As such, I find no conflict with UDP Policy H14 (d), which requires proposals to provide safe access to the highway network and appropriate off-street parking, advice in the SPG, or Government policy in paragraph 111 of the *National Planning Policy Framework*, (the Framework) which says developments should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Conclusion

12. Therefore, for the reasons given above, I conclude that the appeal should be allowed.

Conditions

13. I have considered the suggested conditions in the light of the advice in the Framework and the Government's *Planning Practice Guidance* (PPG). In addition to the 3-year time limit for the commencement of development, a condition is needed to secure compliance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition requiring matching materials is needed in the interests of the appearance of the area.
14. The Council also suggests a condition be imposed requiring a 'structural approval in principle document' (AIP) to be submitted and approved in relation to safeguarding of the highway and to the temporary support required for the public footpath and carriageway during excavation and construction. The condition would require the AIP to be carried out in accordance with Highways England Guidance CG300 Technical Approval of Highway Structures. Planning conditions must satisfy all six tests set out in the Framework and the PPG. One of the tests is that conditions must be relevant to planning and must not be used to control matters that are subject to other (non-planning) legislation and regulations. This condition fails this test and accordingly I shall not impose it.

Nigel Harrison

INSPECTOR