
Appeal Decision

Site visit made on 14 December 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/A4710/W/21/3277837

Garden of 1 Newholme, Brighthouse Road, Hipperholme, Halifax HX3 8EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs Dunk against Calderdale Metropolitan Borough Council.
 - The application Ref 20/00537/FUL, is dated 15 May 2020.
 - The development proposed is a detached bungalow.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The updated version of the National Planning Policy Framework (the Framework) published in July 2021 after the submission of the appeal. However, the deadline for the appellant's final comments, the Council's appeal statement and representations from interested parties all postdate the publication of the new Framework. Therefore, I am therefore satisfied all parties have had the opportunity to consider the changes to the most recent version. I have proceeded with reference to the 2021 Framework in my decision.
3. Whilst the Council has not issued a decision, their evidence explains they have substantive concerns relating to the proposed access arrangements as it relates to highway safety.

Main Issue

4. Therefore, the main issue is whether the proposal would provide a safe and suitable access.

Reasons

5. The appeal site would utilise the existing vehicular access from Brighthouse Road (BR) which comprises a cobbled driveway that currently serves five dwellings, including the host property. From my observations on the site visit, BR was moderately busy at the late morning hour and has a 30 miles per hour (mph) speed limit which comes into effect to the south of the access where the limit reduces from 40mph. The access is narrow and located between a house which

- lines the rear of the footpath to one side and the garden wall of a neighbouring property to the other side.
6. Considering these circumstances, the Manual for Streets (MfS) requires visibility of 45m to the south and 53m to the north which should be maintained from a position of 2.4m back from the give way point. The Council has measured the available visibility from here to be 9m to the south and 19m to the north, which would fall significantly below these requirements in MfS. I note these calculations are not disputed.
 7. Although amendments to the submitted plans were made to widen the access to improve visibility to the north, I share the concerns of the Council as to whether this is achievable given this would require part of the neighbouring boundary wall to be moved. In any event, the appellant has not provided a visibility splay to demonstrate the required visibility can be achieved on site even with the widening of the access. Nevertheless, this would not address the issue of visibility to the south given the presence of the adjacent dwelling. In this scenario, drivers would likely be forced to edge out over the footpath and onto the road to gain the required visibility to egress. Although the appellant point to a lack of accidents in the vicinity, this does not mean there is no risk to highway safety. I therefore have concerns that this would pose a collision risk and endanger pedestrians and drivers that are egressing and those travelling northbound on BR.
 8. My attention is drawn to a planning application¹ which was granted permission in 2008 for ostensibly the same proposal. This did not attract objections from the Council's highways adviser at the time. While the development plan appears to be largely the same since that application was determined, national policy has changed with the introduction of, and subsequent amendments to, the Framework. In any event I am required to form my own judgement and as such, the previous application does not convince me a decision should be made other than in accordance with relevant guidance as it stands today.
 9. Although I understand planning permission was granted for multiple dwellings on the opposite side of BR, I have few details regarding this application before me. In any event, that application would have had its own site-specific circumstances which led to its approval, particularly with regards to visibility and safety of the access. I have assessed the proposal on its own merits.
 10. Given the above, the proposal would be contrary to Policy BE5 of the Replacement Calderdale Unitary Development Plan (adopted August 2006), which seeks to ensure the design and layout of accesses should ensure the safe and free flow of traffic in the interest of highway safety. The proposal would also be contrary to paragraph 110 of the Framework which seeks to ensure a safe and suitable access to the site can be achieved for all users.

Other Matters

11. The site is located within the setting of South Edge House, a Grade II listed building located to the east of the appeal site. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to pay special attention to the desirability of preserving the setting of a Listed Building.

¹ 08/00721/FUL

12. The Council has concluded that due to the distance from the appeal site and level of screening around it, the proposal would not harm the setting of the Listed Building. Based on all that I have seen and read, I see no reason to come to a different conclusion and the proposal would therefore preserve the significance and special interest of the listed building in accordance with the Act.

Planning Balance

13. Both parties agree that the Council cannot currently demonstrate a five-year supply of deliverable housing land. The current position is two years which is significantly below the requirement. Consequently, I am taken to paragraph 11(d) of the Framework where the presumption in favour of sustainable development should be applied unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. I have found that the proposal would not provide a safe and suitable access to the proposed dwelling. This would conflict with paragraph 111 of the Framework. This harm and subsequent conflict would be significant and thus worthy of considerable weight.
15. Whilst all dwellings contribute to housing supply, in this case the delivery of one additional dwelling would only make a limited contribution. In terms of addressing the Council's housing supply shortfall, which is significant, the proposal would therefore have a very limited effect. Accordingly, there would be an equally limited scale of the benefits, such as the small boost to local services and facilities, construction costs and future council tax payments. Although worthy of some positive weight, this would be limited.
16. I have had due regard to other considerations in the appellant's appeal statement. This states the Council has not raised objections to the location of the proposal in principle with regards to the accessibility of public transport, services and facilities. Similarly, there are no issues raised regarding the design of the proposal. However, the absence of harm weighs neither in favour of, nor against, the proposal.

Conclusion

17. The limited benefits of the scheme are outweighed by the harm to highway safety and lack of a safe and suitable access. In accordance with paragraph 11(d), the adverse impacts of the development would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework as a whole.
18. The presumption in favour of sustainable development does not therefore apply and material considerations do not justify a decision otherwise than in accordance with the development plan considered as a whole. For the reasons identified, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR