



Appeal Decision

Site visit made on 26 April 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2023

Appeal Ref: APP/A4710/W/22/3313905

Heath Mount, 80 Smithy Carr Lane, Brighouse, W. Yorks HD6 2HL

- 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 & Mrs Atha against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 22/00274/FUL, dated 23 May 2022, was refused by notice dated 11 October 2022.
 - The development proposed is detached dwelling (re-submission 20/00050/FUL)
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at Heath Mount, 80 Smithy Carr Lane, Brighouse, W. Yorks HD6 2HL in accordance with the terms of the application, Ref 22/00274/FUL, dated 23 May 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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 1A and 2078-101 DRFT OPT1.
 - 3) No drainage works shall begin until full details of the foul and/or surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the dwelling hereby approved and retained thereafter.
 - 4) No above ground works shall take place until details of a swift nesting facility has been submitted to and approved in writing by the Local Planning Authority. The works shall be constructed in accordance with the approved details prior to the first occupation of the dwelling hereby approved and retained thereafter.
 - 5) Prior to the first occupation of the dwelling hereby approved, details of the treatment of all boundaries to the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided in full prior to the first occupation of the dwelling and retained thereafter.

Preliminary Matters

2. The planning application was refused as being contrary to Policy BE5 of the Replacement Calderdale Unitary Development Plan, Adopted 25 August 2006

and as amended by Direction of the Secretary of State, 3 August 2009. However, this has been replaced by Policy BT4 of the Calderdale Local Plan 2018/19 – 2032/33, adopted March 2023.

Main Issue

3. The main issue is the effect of the proposed dwelling on highway safety.

Reasons

4. The appeal site currently forms part of the garden of Heath Mount, 80 Smithy Carr Lane, a detached stone faced house that sits elevated above the road and is accessed from a driveway off Smithy Carr Lane. There is a stone wall and hedge to the boundary of the site with the road and the land itself rises upwards away from the road. The site sits between the existing house, No 80, and a row of terraced houses. There are houses with driveways on the opposite side of the road.
5. Smithy Carr Lane slopes down from west to east and the appeal site is located close to a bend in the road and a junction with Rayner Drive. There are no parking restrictions and cars currently park on the highway although at the time of my site visit there were few cars parked on the road near to the appeal site but there were much more cars parked further along the road to the west outside the terraced houses. The survey submitted by the appellants is consistent with my observations.
6. Whilst Smithy Carr Lane has a 20mph speed limit, the appellants survey indicates that at the access the 85th percentile wet weather speeds show more accurate speeds of 24/25mph. Local residents also comment that the 20mph speed limit is not adhered to and cars travel much faster down the road. To account for the recorded speeds, the proposed visibility splay would involve a build-out at the new access. This would be no more than a metre and, based on the evidence before me, I do not consider that this would result in altering Smithy Carr Lane to such an extent that it would create a danger to highway safety.
7. The Council consider that the proposal would result in decreasing the radius on the road and potentially removing any opportunity for safe on-street parking. The proposal would also involve additional white lining and potentially a Traffic Regulation Order to remove on-street parking. The Council consider these works to be disproportionate to the scale of the proposed development. The Council also question the map used as a base for the survey of the site in terms of visibility splays.
8. However, I consider that the proposal would result in a minimal reduction in available on-street parking and given that the proposal itself would incorporate off-street parking provision, it would not in itself result in an increased demand to park on the road. Any works involving white lining or a Traffic Regulation Order would be subject to other legislation and I have no evidence that any works necessary would not be capable of being carried out. Furthermore, I have no substantive evidence that the information with regard to visibility splays submitted by the appellant is not based on an accurate survey.
9. In the concerns raised about road safety on Smithy Carr Lane, reference is made to a parked van being so badly damaged as to be 'written off' due to a collision. The information submitted from the appellant about traffic accidents

indicates two occurrences of reports of injury accidents. This evidence suggest that these reported accidents were due to driver error and occurred at the top of Smithy Carr Lane at the junction with Lightcliffe Road. Furthermore, although the road is described as being a very busy thoroughfare, which I have no reason to doubt, the submitted evidence does not indicate that highway safety would be adversely affected by this proposal.

10. Although traffic speeds exceed the 20mph speed limit, the proposal would involve alterations that would ensure adequate visibility splays could be achieved. From the evidence submitted, I am satisfied that the works would not result in a traffic hazard and the proposal would not result in cars being parked on the highway to such an extent or in such locations as to harm highway safety.
11. Local Plan Policy BT4 requires the design and layout of highways and accesses to ensure the safe flow of traffic in the interests of highway safety and to provide convenient and safe pedestrian routes, amongst other things. The National Planning Framework¹ also indicates that new development should ensure that safe and suitable access to the site can be achieved for all users. The proposal would ensure that adequate visibility splays could be provided and I do not find that there is compelling evidence to conclude that the proposal would hinder on-street parking to such an extent as to warrant refusing this development.
12. I therefore conclude that the proposal would not have a harmful effect on highway safety and no conflict with Local Plan Policy BT4 or the Framework would occur.

Other Matters

13. Concerns have been raised about loss of light and the imposing impact of the proposal and the subsequent harm to the living conditions of existing residents, particularly in the terraces 72-78 Smithy Carr Lane, with No 78 being closest to the appeal site. However, given the spacing between the existing houses and the proposed house, the land levels and overall topography and the position and design of the proposed house, I do not consider that the living conditions of the occupiers of the neighbouring properties would be unduly harmed.

Conditions

14. I have considered the conditions suggested by the Council in the light of the Framework and Planning Practice Guidance². I have amended the wording of some of the conditions in order to be more concise and taking into account the tests set out in the Framework and the PPG.
15. A condition requiring the development to be carried out in accordance with the submitted details is necessary for the avoidance of doubt and in the interests of proper planning. Both parties agree that the submitted plans comprise Drawing No 1 A and Drawing No 2078-101 DRFT OPT1 although the Council amended the Drawing No 2078-101 DRFT OPT1 to 2078-101 rev A and cited this latter reference on the decision notice. The two plans are one and the same but as

¹ Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

² Planning Practice Guidance, Published 6 March 2014 – Last Updated 23 July 2019 (PPG).

the plan bears the reference 2078-101 DRFT OPT1 I have referred to this in the condition.

16. A condition requiring drainage details for foul and surface water drainage is necessary in order to ensure that the development incorporates satisfactory drainage of the site. Details of boundary treatments are necessary in order to ensure a satisfactory appearance particularly given the site's frontage and rising land levels. Provision of a permanent swift nesting feature is suggested which I consider is reasonable in the interests of biodiversity. The Council's delegated report refers to other species including bats and hedgehogs but the suggested condition only suggests a swift nest feature. I have therefore only included that required by the suggested condition.
17. A condition requiring details of a bin store is suggested but given that this is one detached house with sufficient amenity space around it to accommodate the domestic requirements for refuse bins, I do not consider that a condition is necessary.
18. A condition requiring the installation of an electrical facility for charging batteries for electric powered vehicles is not necessary as this is covered by separate legislation under the Building Regulations.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed.

J D Clark

INSPECTOR