



Appeal Decision

Site visit made on 17 October 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25th October 2023

Appeal Ref: APP/B2355/D/23/3326114
27 Helmshore Road, Haslingden BB4 4BG

- 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 S Tahir against the decision of Rossendale Borough Council.
 - The application Ref 2023/0242, received by the Council on 26 May 2023, was refused by notice dated 4 July 2023.
 - The development proposed is construction of new, replacement access.
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Decision

1. The appeal is allowed and planning permission is granted for construction of new, replacement access at 27 Helmshore Road, Haslingden BB4 4BG in accordance with the terms of the application, Ref 2023/0242, received by the Council on 26 May 2023, and the plans submitted with it, 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: Location Plan Ref.ST.230523.A, Existing and Proposed Plan Ref.ST-05-04-23 and unnumbered topographic plan indicating measured distances.
 - 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.
 - 4) The street tree adjoining the access hereby permitted shall be protected by 2 metre high fencing for the duration of the works, and no construction work shall take place within 2.5m of its trunk.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. 27 Helmshore Road (No.27) is a two storey detached dwelling. Three dwellings have recently been constructed at the rear of this dwelling using the same access as No.27. The appeal proposal seeks to provide a new, independent access and dropped kerb for No.27.
4. The access would involve a new opening in the boundary wall fronting Helmshore Road and an accompanying dropped kerb crossing the pavement. Near to the proposed access is a street tree and this is one of several trees

along the pavement which contribute positively to the character and appearance of the area. The Council also notes the wider benefits of the trees to the biodiversity of the area and to mitigate the impact of climate change.

5. The Vehicle Crossing Policy of the County Highways Authority (HA) states that they will not remove healthy trees to accommodate a vehicle crossing. Sufficient clearance should be allowed to ensure that the construction does not damage the tree roots or affect the long-term health of the tree. It states that as a rule, a vehicle crossing facility should be approximately 2.5m from the tree trunk.
6. The HA consider that the proposed vehicle crossing would be within 2.5m of a highway tree trunk, and therefore the proposal would be contrary to the above Policy. However, the appellant's topographic plan submitted as part of their appeal statement provides measurements to demonstrate that the proposed beginning of the vehicle crossing would be 2.5m from the tree trunk and suggests that this would therefore comply with the Policy. The Council has not disputed these measurements and having viewed all the documents and seen the site, I have no reason to disagree with them. Furthermore, the appellant comments that they have no wish to harm the tree or have it removed.
7. Therefore, in my view, the proposed access would comply with the Vehicle Crossing Policy and there is no other evidence before me to suggest that it would damage the roots of this street tree or affect its long-term health. For these reasons, I conclude that the proposal would have no harmful effect on the character and appearance of the area. Accordingly, I find no conflict with Policy ENV1 of the Rossendale Local Plan (2021) which seeks to ensure that there is no adverse impact on the natural environment, biodiversity or in protecting existing landscape features. It would also comply with paragraph 131 of the National Planning Policy Framework which seeks to ensure that existing trees are retained wherever possible.

Conclusion and Conditions

8. Accordingly, for the reasons given above, and having regard to all other matters raised, I therefore allow the appeal subject to conditions that are necessary in the interests of certainty and safeguarding the character and appearance of the area. I have also added a condition relating to the protection of the street tree during the works, at the suggestion of the appellant. I have made slight adjustments to the wording to ensure clarity.

G Bayliss

INSPECTOR