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## Appeal Decision

Site visit made on 21 February 2024

**by K Winnard LL.B Hons Solicitor**

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

**Decision date: 07.03.2024**

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**Appeal Ref: APP/A4710/D/23/3335718**

**South Cottage, Skircoat Green Road, Halifax HX3 0LB**

- 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 M Afzal against the decision of Calderdale Metropolitan Borough Council.
  - The application Ref. 23/00827/HSE dated 7 August 2023, was refused by notice dated 2 October 2023.
  - The development proposed is a new private drive access for existing dwelling.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. In December 2023 the Government published its revised National Planning Policy Framework (the Framework). In this instance the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework and that no party would be disadvantaged by such a cause of action.
3. The appeal is in relation to a second application for this site. I note within the appeal form that the case reference of the first application<sup>1</sup> was cited but it is clear from the accompanying documentation and statement of case that the appeal relates to the second application<sup>2</sup>. I have accordingly dealt with the appeal on the basis of the second application.

### Main Issues

4. The main issues in the appeal are the effect of the proposed development on (i) highway safety, (ii) the character and appearance of the host dwelling and the area having regard to its conservation area status and (iii) flood risk.

### Reasons

*Highway Safety*

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<sup>1</sup> 23/00129/HSE

<sup>2</sup> 23/00827/HSE

5. The appeal property, South Cottage, is a large detached property set behind a low boundary wall within the Savile Park Conservation Area (SPCA), and sited adjacent to Manor Heath Park. It is located at a prominent corner plot at the junction of Skircoat Green Road and Skircoat Moor Road. Skircoat Moor Road and Dryclough Lane, the highway which approaches this junction from the east together form the A646, an arterial route in the area. There are traffic light signalised controls and signalised controlled pedestrian crossings on all four approaches at the junction of these roads and the A646 in addition has right filter turning lanes in both directions into Skircoat Green Road. At the time of my visit on a mid week afternoon traffic was busy and there was a steady flow of pedestrians using the crossings.
6. The proposal would see the creation of a vehicular access formed through the boundary wall close to the pedestrian crossing on Skircoat Moor Road and between the pedestrian barrier fence and the traffic light. The submitted plans indicate the provision of parking bays, and a turning area within the site to illustrate how a vehicles may enter and leave it in a forward gear. I note that the Council do not raise any specific concerns in relation to the swept path analysis shown on the plans nor the turning area and parking areas proposed.
7. The Council's principal concern relates to the creation of an access within the signalised junction at this location. The proposal would require a driver to wait either within the signalised junction or the access for a gap in vehicular and pedestrian traffic to enter or exit the site. The Council advise that the traffic signals would not be repeater traffic lights or phased. The existence of the signalised controls on this junction would make it very difficult to exit the site with any certainty in relation to oncoming pedestrian and vehicular traffic.
8. This would particularly be the case in relation to traffic approaching from the north along Skircoat Green Road where visibility is limited by the corner of the building itself. The plans provided differ as to the size of the proposed visibility splay in this direction, showing the splay as 2.4m x 25 m and 2.4m x 28m subsequently. The speed survey supplied by the appellant indicates that given measured 85<sup>th</sup> percentile speeds, the proposed visibility splays shown on the latter plan would fall within the guidelines set out in Manual for Streets 2. The speed survey is a radar speed survey only and for this reason and a lack of detail as to its scope, the survey is not regarded as adequate by the Council.
9. I noted on my site visit that it is difficult to see oncoming traffic from this direction and a good level of visibility would be needed to anticipate a gap in which it would be possible to exit the access safely. Further oncoming drivers from this road would have limited advance warning of vehicles exiting the access. On this basis of the information before me, I am not persuaded that there would be adequate visibility in the Skircoat Green Road direction to enable safe egress from the site.
10. Notwithstanding that the vehicular movements associated with one dwelling would be limited, I concur with the Council's assessment that stationary vehicles waiting within the junction to enter the site are vulnerable and would increase the likelihood of a collision. Further, given Skircoat Moor Road and Dryclough Lane are busy roads, vehicles waiting to use the access would have a detrimental impact on traffic flows during busy hours. I note the offer to provide a "keep clear marking" but it is not clear how this would be achieved in practice. Likewise, given the proximity of the access to the Skircoat Moor Road

pedestrian crossing, pedestrians using this crossing to access the nearby park entrances on Skircoat Green Road would be unlikely to have time to react to vehicles entering this proposed access to avoid a collision. Overall, this access would result in an unacceptable impact on highway safety.

11. Crashmap data shows that three accidents have occurred within this junction in the 5 year period up to 2021, and the appellant asserts that these were due to driver error/recklessness rather than the road layout itself. However this assessment in any event cannot be conclusive as to the position were the access now proposed be in place. Further whilst there is an existing access to this junction that exists opposite the site across the road, I have not been provided with any evidence as to how long this has been in existence nor whether it benefits from planning permission. In any event I am required to determine the appeal on its own merits and for the reasons given have found that the development is unacceptable.
12. Therefore, the proposed access would cause unacceptable harm to highway safety. As such, it would not comply with Policy BT4 of the Calderdale Local Plan (adopted 2023) (CLP) which requires the design and layout of accesses to ensure safe and free flow of traffic in the interests of highway safety. It would also not comply with the Framework which seeks to ensure that proposals have safe and suitable access for all users.

#### *Character and appearance of the area*

13. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in the exercise of planning powers in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area, in this case the SPCA. In addition, the site is also adjacent to the Skircoat Green Conservation Area (Skircoat GCA). The glossary to the Framework states that the setting of a heritage asset compromises the surroundings in which it is experienced.
14. I have not been provided with a copy of the SPCA appraisal. However, based on my own observations and the information before me, the character, appearance and significance of the SPCA is largely derived from its parks, open spaces, and large Victorian properties which emphasise the high status the properties originally enjoyed. Stone boundary walls with extensive tree and shrub coverage combine to give a pleasant leafy character. South Cottage is a large Victorian property within the SPCA, formerly the lodge or staff cottage associated with the former Manor Heath residence, now demolished, which now forms the adjacent park. The building is not identified by the Council as a non designated heritage asset nor, I am advised, is it identified within the conservation area appraisal as a key feature. However, by virtue of its prominent location, architecture and historical interest, I find that South Cottage makes an important and positive contribution to the SPCA.
15. Whilst some of the front stone walling has been removed/collapsed in part, the low level walling bounding South Cottage provides a pleasant horizontal feature found elsewhere within the SPCA. Save for its pedestrian access gate, it provides continuous walling in conjunction with the park, reflective of its historical association with the latter. The partial demolition of the wall in front of the building would result in the loss of a significant portion of this wall and would remove an historic feature of the SPCA. It would fail to respect the established historical character of the boundary treatment to the building and

to the area as a whole. Whilst I accept that within the wider SPCA boundary walls are punctuated by gaps for vehicular and pedestrian traffic, these on the whole form part of the original boundary treatment for the properties. Properties where there is both a separate pedestrian and vehicular access, as would be the case in this instance, were not a prevalent feature within the SPCA I observed on my site visit.

16. I appreciate that views of the access, due to its location, would in some directions be limited due to existing boundary treatment. However, this would not be the case in views from Skircoat Green Road from the south where, notwithstanding the traffic infrastructure to the foreground, South Cottage is viewed as a positive feature within the backdrop of the verdant boundaries of the adjacent park. Whilst the proposed access would be set slightly to the west of the main view of the front of the building itself the removal of part of the front boundary wall when combined with the introduction of hard surfacing and associated vehicular parking within the boundary of South Cottage would change the nature of the space and cause visual harm to the appearance of the SPCA. Further, any mitigation of the views by shrubs and boundary treatment would be limited given that the scheme proposes the reduction in height of boundary treatment and shrubs within the north eastern visibility splay. I note too the suggestion that the access point could be framed by piers but in itself this would introduce a new feature within the wall which would further erode the historical boundary treatment in this location.
17. For the reasons given above, the proposal would fail to preserve or enhance the SPCA and would be harmful to its significance. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal. Given the size and scale of the proposal within the SPCA as a whole, the harm which would arise would be less than substantial within the meaning of the Framework. Whilst the appellant considers the impact as minor there is no policy requirement to introduce sub divisions into a finding of less than substantial harm. Under these circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
18. The appellant refers to a number of public benefits, including heritage benefits, in support of the proposal. These include the improvement of the retained boundary wall including the undertaking of repairs, and general upgrades of the boundary wall and boundary treatment. Further it would improve the convenience of accessing the property and parking for the occupier/visitor thereby enabling modernisation of the building. Whilst I acknowledge that the improvement of housing stock would be a public benefit, from an external viewpoint the property appears to adequately function as a dwelling. Nor has it been shown that its continued occupation or renovation are in any way dependent on the provision of this access. Further the repairs to, and upgrading of, the walls and boundary treatment could be achieved independently of the proposal. As such, these matters would not be of sufficient weight to tip the overall planning balance in their favour when weighed against the great weight that has to be given to the conservation of the designated heritage asset, in this case the SPCA. Accordingly, the appeal proposal would fail to comply with the Framework insofar as amongst other things, it requires heritage assets to be conserved in a manner appropriate to their significance.

19. It follows that the proposal fails to comply with national policy as outlined in the Framework and with Policies HE1 and BT1 of the CLP which, taken together, seek to require new development to respect and enhance the character and appearance of existing buildings and surroundings, including those which in conservation areas make a positive contribution to its character.

*Flood Risk*

20. The Council is concerned as to how surface water within the development would be managed in a sustainable way as required by Policy CC2 of the CLP. Whilst the proposal would remove a soft landscaped area and part of the boundary wall, it appears to me that sufficient space would be retained to enable the introduction of a SuDS system and to reduce the risk of surface runoff. Further a requirement for such a scheme and/or permeable surfacing could be imposed by condition. Accordingly, I do not find that the proposal would fail to comply with Policy CC2 of the CLP which requires amongst other things, development to manage surface water in a sustainable way and to implement measures required to manage any flood risk.

**Conclusion**

21. Whilst I have found that the proposal would not have an unacceptable impact on flood risk, I have found it would neither preserve or enhance the conservation area. Furthermore it would be unacceptable in highway safety terms. For these reasons, and having regard to all matters raised, the appeal is dismissed.

*K Winnard*

INSPECTOR