



Appeal Decision

Site visit made on 8 September 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 September 2017

Appeal Ref: APP/T1410/W/17/3175146

Nos 39 and 41 Willingdon Road, Eastbourne BN21 1TN

- 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 Colin McMahon and Ms Beverley Martin against the decision of Eastbourne Borough Council.
 - The application Ref PC/161386, dated 18 November 2016, was refused by notice dated 7 February 2017.
 - The development proposed is formation of vehicular access onto highway.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form gave the description of the development as the 'formation of vehicular access onto highway' and the site address as No 41. However, the appeal relates to the creation of an access across land in two separate ownerships. The Council's decision notice therefore expanded the description to: 'formation of vehicular access onto highway to serve 39 and 41 Willingdon Road with provision for off street parking for 4 vehicles'. As this clarifies the proposed development, I have included No 39 in the site address and determined the appeal on the basis of this amended description.

Main Issues

3. The main issues are:
 - a) the effect of the removal of the boundary wall on the character and appearance of the area;
 - b) whether or not a safe access could be retained in perpetuity.

Reasons

4. Willingdon Road is one of the principal routes in and out of the centre of Eastbourne. It carries significant volumes of traffic and parking in the vicinity of the appeal site is restricted by yellow lines. Nos 39 and 41 are on the western side of the street, on the approach to the traffic signals at the staggered junction with Eldon Road and Rodmill Road.
5. The western side of Willingdon Road to the south of the junction is characterised by good-sized semi-detached and terraced dwellings set in long plots. They date from the early 20th century, in an era prior to the need to accommodate car ownership. They have well-proportioned front gardens

enclosed by brick walls which are punctuated by pedestrian entrances marked by piers. The proposal seeks to create a single vehicular access which would be shared by Nos 39 and 41. The area in front of both properties would be used for the parking and turning of vehicles.

6. There is a notable absence of vehicular accesses in the vicinity of the appeal site, although a block of flats between Nos 17 and 23 has limited off-street parking parallel to the road. This has also enabled No 23 to use its front garden for parking, although there was no evidence of a dropped kerb serving it. The eastern side of the street is characterised by smaller, terraced properties. Their front gardens are similarly enclosed by brick walls and other vegetation. However, a service road at the rear of these properties means that there is no need for vehicular accesses on this side of the street.
7. Nevertheless, the sense of enclosure created by the walls, with only small gaps for pedestrian gates, is one of the defining features of the street scene on both sides of this particular stretch of Willingdon Road. To the north of the junction with Eldon Road there is a distinct change of character, with larger properties and predominantly detached houses, many of which have vehicular entrances. Furthermore, the eastern side has a grass verge giving the street a more open and spacious appearance.
8. In this context the loss of a section of approximately 4.5m of the boundary wall that currently encloses Nos 39 and 41 would be harmful to the street scene. It would disrupt a long length of wall along the western side of Willingdon Road by introducing a gap that would be significantly larger than those which provide pedestrian entrances to these houses. Features such as boundary walls do not have to be located within a conservation area to be worthy of being retained. It therefore does not follow that their removal would be acceptable, if doing so would adversely affect the area's appearance.
9. No 41 already has a paved front garden. However, it would be necessary to pave most of the area in front of No 39 in order to provide sufficient space for vehicles to park, turn around and leave the site in a forward gear. The permanent loss of the hedge that currently marks the shared boundary, together with the need to remove other vegetation and greenery from No 39's garden, would be out-of-character with the other front gardens in the vicinity.
10. The removal of the railings that previously ran southwards from the junction to the appeal site has introduced the possibility of allowing the installation of a dropped kerb. However, whilst alterations to the kerb would not materially change the appearance of the street, the removal of a section of the boundary wall would have a much more significant effect. I note that there is a dropped kerb at Nos 35 and 37. However, I understand this relates to a decision from 1990 and the boundary walls to these properties have not been removed. The dropped kerb cannot have been used and the permission has now expired. In these circumstances, the presence of the dropped kerb is a matter of little weight in my consideration of the current scheme.
11. I conclude that the proposal would harm the character and appearance of the area, contrary to Policies B2 and D10a of the Eastbourne Core Strategy Local Plan (Core Strategy) and saved Policy UHT 4 of the Eastbourne Borough Plan. All these policies, amongst other things, require new development to make a positive contribution to the area's appearance and respect the distinctive characteristics of the places in which they are located.

Highway safety

12. The highway authority is satisfied that the access would be safe, provided that vehicles could turn around on the site and leave in a forward gear at all times. I agree. To do this it would be essential that the boundary between Nos 39 and 41, including the existing hedge, was removed and the area of both front gardens was laid out as a shared area. It would also be necessary to ensure that the works were carried out simultaneously and that the completed scheme was retained for use by both properties in perpetuity.
13. The appellants consider that this could be achieved through the imposition of appropriate conditions. The Council has suggested a number of such conditions, should the appeal be allowed. Some of these would ensure that the access and turning area would be provided to an appropriate standard and with the required visibility splays. The suggested conditions would also prevent the erection of a boundary between the two properties and require the turning spaces be retained in perpetuity. However, as conditions do not address the matter of land ownership, in the absence of a S106 agreement, one party could cease to allow the other to use their land for turning a vehicle. This would introduce the possibility of vehicles reversing onto the highway.
14. I accept that this would be unlikely in the immediate future in view of the agreement between the current owners to submit the joint application. However, the proposed access would be onto a classified road (A2270) where there are large volumes of traffic and a significant number of pedestrians. It is therefore necessary for me to take a precautionary approach, having regard to the likelihood that the ownership of both properties will change over time.
15. Taking all these factors into consideration, I conclude that the access would not be safe in the absence of a legal agreement to secure it and the associated turning areas in perpetuity. It would therefore be contrary to Policy B2 of the Core Strategy which requires development to provide a safe environment. It would also fail to comply with Paragraph 32 of the National Planning Policy Framework which seeks safe and suitable access to the site for all people.

Conclusions

16. The area in front of Nos 39 and 41 would provide sufficient space to park and turn vehicles around and an access which meets appropriate design standards could be achieved. I acknowledge that the owners of both properties have worked collaboratively to find a shared solution that would provide them both with off-street parking in an area where opportunities to park on-street are limited. This would benefit the occupants of both properties.
17. However, I have found that the loss of the boundary wall would be harmful to the character and appearance of the area and that, in the absence of a legal agreement, there is no guarantee that the arrangement would be secure in perpetuity. The personal benefits arising from the scheme are not a justification for setting aside these harms. For this reason, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR