

Appeal Decision

Site visit made on 6 February 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 17 February 2017

Appeal Ref: APP/R4408/W/16/3162814

714 Doncaster Road, Ardsley, Barnsley, South Yorkshire S71 5EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs J & JM Whyke against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2016/0343, dated 23 March 2016, was refused by notice dated 11 July 2016.
 - The development proposed is residential development consisting of 2 detached dwellings, 1 detached 'chalet style' bungalow and associated garages following demolition of existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with approval sought for details of access and layout. The reserved matters for future approval are appearance, landscaping and scale, and therefore, the details on the submitted plans relating to those matters are illustrative. I determine the appeal on that basis.

Main Issues

3. The main issues are:
 - the effect on the character and appearance of the site and the surrounding area, and;
 - the effect upon the living conditions of occupiers of neighbouring properties and whether the development would provide for a suitable living environment for future occupants, with particular regard to matters of outlook, light, privacy, noise and disturbance.

Reasons

Character and appearance

4. The appeal site consists of an existing detached bungalow with a substantial rear garden located on the northern side of Doncaster Road (A635), the section of which fronting the site consists of a wide dual carriageway. The immediate surroundings are predominantly residential, including properties to the west which face a cul-de-sac addressed as Hillside, and properties further to the east
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facing Quaker Lane. However, there are some non-residential properties along Doncaster Road, including the adjacent No 716 to the east.

5. The immediate surroundings of the site consist of predominantly detached dwellings, with some examples of semi-detached properties and terraces in the wider setting. The neighbouring properties include No 716a which is a backland development at the rear of No 716, both of which are set within a large plot. The dwellings along Hillside are more tightly spaced. However, a significant increase in land levels in a northward direction, together with a transition of individual building heights and front building lines along Hillside contributes to a sense of spaciousness.
6. The appeal site currently appears deceptively narrow due to the presence of the existing bungalow and substantial landscaping toward the eastern boundary. However, the width of the site frontage is more substantial than perceived insofar as it is comparable to No 716 and greater than the existing depth of the plot of No 1 Hillside to the west. The site extends to the north for a considerable distance from the road and narrows considerably at its furthest extent where it adjoins a public footpath that provides a link between Hillside and Quaker Lane. The land levels within the site are steeply sloping in a northwards direction, with a difference of approximately 8 metres from the frontage of the site when compared to its northern extent. There is also a considerable downward slope from the eastern to western boundaries resulting in variable differences in land levels. The downward slope also continues beyond the site to the lower levels of the properties facing Hillside.
7. A previous appeal decision¹ related to an outline application with all matters reserved for residential development with an illustrative site layout that identified 4 houses. The previous scheme sought to reinstate an outline planning application granted planning permission in 2005 that was not implemented and is no longer extant. The previous Inspector, amongst other matters, identified harm relating to the character and appearance of the area based on the overall quantum of development proposed. In seeking to address the concerns of the previous Inspector, the submitted plans reduce the number of dwellings proposed from 4 to 3 as part of a revised layout and include excavations to reduce the land levels of parts of the site.
8. As the development lies within a Housing Policy Area designated by the Barnsley Unitary Development Plan (UDP), adopted December 2000, there is no dispute between the main parties that the principle of redevelopment of the site would accord with Saved Policy H8. The character and appearance of the existing bungalow does not necessitate its retention. Furthermore, its replacement with 2 detached houses located on the highway frontage facing Doncaster Road would comply with the guidance in the Council's Supplementary Planning Document: Designing New Housing Development (SPD), adopted March 2012. The main front building lines of 2 detached dwellings would be broadly consistent with surrounding properties along the northern side of Doncaster Road. I am satisfied that the proposed layout of those dwellings as indicated in drg.no. 2016/10/01 could achieve an appearance and scale as part of the submission of reserved matters which would integrate appropriately with the character and appearance of the surrounding area.

¹ APP/R4408/A/14/2219667 - Dismissed - 23 February 2015

9. Saved Policy H8D of the UDP relates specifically to infill, backland and tandem residential development and amongst other things, seeks to avoid harm to the local environment. The policy is supplemented by the SPD which indicates that tandem development, with one dwelling directly in front or behind another sharing the same access, will almost always be resisted. However, in the particular circumstances of the site and its surroundings, there is precedent of such an arrangement immediately to the east (Nos. 716 and 716a).
10. The site layout indicates that a detached 'chalet style' bungalow would be positioned towards the rear of the site, with illustrative details suggesting a similar style to some properties facing Hillside. Views from Doncaster Road towards that part of the site would be partially obscured by surrounding properties and the recessed position of the rear dwelling. Furthermore, subject to the reserved matters of scale and appearance, the height of buildings towards the rear of the site could assimilate with those surrounding. This would be assisted by the difference in respective height of properties facing Hillside to the west and No 716a to the east, together with the excavations of land levels proposed.
11. Notwithstanding the above, the footprint of the backland development would consist of virtually the full width of the site where it significantly narrows, which would be particularly visible from the public footpath at the rear and surrounding dwellings. From those perspectives, the expanse of built form, consisting of a dwelling and a nearby garage block would be viewed as a cramped form of development within the site which would appear incongruous within an otherwise spacious setting. The resultant effect would be apparent despite the provision of a generous rear garden and the potential addition of landscaping. Consequently, the layout of the dwelling towards the rear of the site would result in significant harm to the character and appearance of the site and the surrounding area and would, therefore, conflict with Policy CSP29 of the CS and Saved Policy H8D of the UDP.
12. In reaching the above findings, I have taken into account that the scale and appearance of the buildings, together with any associated landscaping, are matters which are reserved for future approval. Nevertheless, I am not satisfied based on the evidence before me, together with my observations of the site and its surroundings, that such matters would be capable of mitigating the harm identified.
13. The appellant has referred to other examples of development, including the Hillside development and a recent dwelling granted planning permission nearby at Kendal Grove. However, I do not have the full details of the circumstances that led to those proposals being accepted and the respective developments are different. I have, therefore, determined this appeal on its own merits.
14. The site contains a number of trees which when taken together have cumulative landscape value as part of a verdant setting. However, I observed that the majority of the trees were of coniferous garden varieties with limited amenity value and there is no evidence that any are protected by a Tree Preservation Order. As landscaping is a reserved matter, I am satisfied that the trees removed to facilitate the development would be capable of being appropriately replaced. However, the absence of concern in this respect is a neutral factor which does not justify the harm otherwise identified.

15. I conclude that the development would significantly harm the character and appearance of the site and the surrounding area. The development would, therefore, conflict with Policy CSP29 of the CS and Saved Policy H8D of the UDP, together with the guidance in the SPD. The policies are consistent with the design objectives of the National Planning Policy Framework (the Framework).

Living conditions

16. Policy CSP29 of the CS in seeking high quality design requires that a development should contribute to healthy, safe and sustainable environment. In addition, Saved Policy H8A of the UDP is clear that the scale, layout, height and design of all new dwelling proposed within the existing residential area must ensure that the living conditions and overall standards of residential amenity are provided or an acceptable level both for new residents and those existing. Saved Policy H8D of the UDP has similar requirements for infill, backland and tandem residential development.
17. The SPD provides supplementary guidance to assist the interpretation of the above policies which, amongst other things, includes external spacing standards. In seeking to overcome the concerns of the previous Inspector with respect to the effect upon neighbouring properties which face Hillside, the appeal proposal includes less dwellings and significant excavations of land levels towards the rear of the site. The proposed layout of each dwelling, subject to window positions which would be determined as part of the reserved matters, would achieve the minimum external spacing standards identified in the SPD in terms of their relationship to each other and the properties facing Hillside. Nevertheless, guidance carries less weight than policy and it is, therefore, necessary that I assess the scheme based upon its relationship to the particular circumstances of its surroundings.
18. The rear elevation and rear garden of No 1 Hillside (No 1) would be at significantly lower land levels than the nearest dwelling proposed toward the front of the site. The submitted plans do not indicate any significant alterations to existing land levels at the front of the site and illustrative details of scale show a two storey dwelling. In such circumstances, the inevitable increase in scale, bulk and massing arising from a two storey dwelling in that location would have a dominant and overbearing effect with some overshadowing to No 1 and its rear garden. This relationship would be harmful to the living conditions of occupiers of No 1, irrespective of SPD guidance being met and that the dwelling would be located further away than the existing bungalow.
19. A more modest scale of a dwelling, such as a bungalow, may be capable of mitigating the harm identified. However, the limited footprint of the dwelling as indicated on the proposed layout suggests that a bungalow would not provide adequate internal space to ensure a suitable living environment for future residents. Consequently, I am not satisfied based on the layout proposed, that the reserved matters of scale, appearance and landscaping could suitably overcome the harm to No 1 that I have identified.
20. The harmful effect identified in terms of No 1 is not replicated by the relationship of Nos. 3 and 5 to the proposed layout of built form, given the increased distance to the proposed dwellings and the detached garage block. However, the previous Inspector had concerns in terms of privacy, noise and disturbance associated with the use of a proposed vehicular access road,

parking and turning areas. I share the concerns of the previous Inspector regarding those matters given the close proximity of the proposed access road, parking and turning areas to the rear boundaries of Nos. 1, 3, 5 and 7. The development would introduce movement of vehicles and pedestrian activity in close proximity to habitable elevations and rear gardens of the aforementioned properties, resulting in noise and disturbance. In response, the proposed layout includes acoustic fencing, an embankment and landscaping along the common boundary of Nos. 3, 5 and 7.

21. When taking account of the effect of existing traffic along Doncaster Road, the use of the access would not result in a significant change to the privacy and noise environment of No 1. Furthermore, acoustic fencing, an embankment and landscaping could partially mitigate the effects upon Nos. 3, 5 and 7. However, the addition of acoustic fencing and landscaping to the rear boundaries would result in an overbearing and overshadowing effect on those properties and their shallow rear gardens given the reduced land levels to the west. The cumulative effect of the fence, embankment and landscaping would have a substantially greater impact than the existing trees and hedges along the existing boundaries. The resultant effect would significantly harm the existing living conditions of occupiers of Nos. 3, 5 and 7 in terms of outlook.
22. The appellant has drawn my attention to examples of noise generating activity nearby, including associated with a nearby club and the redevelopment of the site of the former Ardsley House Hotel. However, the noise generating activities associated with those locations would not be comparable to the frequency and proximity of noise generated through use of the access, parking and turning areas. In any case, the existence of other noise generating activity does not justify the harm in terms of noise and disturbance that would arise to Nos. 3, 5 and 7 Hillside if the acoustic fencing, an embankment and landscaping were omitted as part of the submission of reserved matters. Consequently, the significant harm identified to the living conditions of Nos. 3, 5 and 7 could not be overcome as part of the layout proposed.
23. The relationship of a chalet bungalow to the rear elevation and rear garden of Nos. 7 and 9 would involve a considerable depth of built form towards its western extent. However, I am satisfied that the cumulative effect of excavated land levels and an appropriate scale and appearance as part of the reserved matters could be achieved to preserve the living conditions of those properties in terms of matters of outlook.
24. The Council have expressed additional concerns with respect to the effect of the position of the proposed dwelling closest to No 716. However, the side elevation of No 716 already has very limited outlook and light due to the presence of substantial existing landscaping to the common boundary. Consequently, the proposed dwelling would not have a greater effect on the living conditions of No 716, given that replacement landscaping could be secured to this aspect as part of the reserved matters. I also do not share the Council's concerns regarding the relationship of the proposed garage block to secondary windows in the side elevation of No 716A. The outlook from the secondary windows facing the site could not reasonably be protected and could be appropriately screened by landscaping in any case.
25. A design of each dwelling could be achieved to provide satisfactory levels of privacy for all surrounding properties, including within the development itself

and avoiding first floor windows in close proximity to and facing neighbouring properties and rear gardens. The rear parking and turning areas are sufficiently distant from the main elevations of the proposed dwellings to prevent undue noise and disturbance to future residents. The dwellings, subject to scale and appearance, and rear gardens would be capable of providing a satisfactory living environment for future residents. However, the absence of concern in those respects is a neutral factor which does not justify the harm otherwise identified, particular given the impact of the necessary scale of dwelling closest to No 1 on living conditions.

26. I conclude that the development would significantly harm the living conditions of occupiers of neighbouring properties, specifically Nos. 1, 3, 5 and 7 Hillside. The development would, therefore, conflict with Policy CSP29 of the CS and Saved Policies H8A and H8D of the UDP. The policies are consistent with the core principle of the Framework that seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

27. The development would make a positive contribution to the supply of housing in an existing residential area that has public transport provision nearby. The development would also have economic benefits to the local area through Council tax revenue and support for local services. In addition, there would be temporary economic benefits with respect to the necessary construction works associated to the development. However, the contribution to housing supply from the scale of development proposed and the associated social and economic benefits do not outweigh the harm identified.
28. The access to the site and proposed parking arrangements within the approved plans reflect safe and satisfactory arrangements for the scale of development permitted which would not harm highway or pedestrian safety. Furthermore, the length of the private driveway serving the property at the rear would not be harmful, given the precedent of other backland development nearby. However, the absence of concern in those respects is a neutral factor.
29. The appellant has made reference to the unsuccessful marketing of the current dwelling for a number of years due to the constraints of the considerable size of garden. The evidence provided is limited and unsuccessful marketing can be for a number of reasons. Nevertheless, I have some sympathy with the appellant's aspirations to redevelop the site to make it more marketable or reduce the maintenance required to maintain the large rear garden. However, those matters do not outweigh the harm I have identified with respect to the layout proposed.
30. The appellant has indicated that there are development options available through permitted development rights which could result in considerable development in a backland position without the need for planning permission or alternatively that apartments could be proposed to the front of the site. However, I have no substantive evidence before me that there is a significant probability that the fallback position provided by permitted development rights would be constructed should this appeal be dismissed. Furthermore, an apartment scheme would necessarily require planning permission, the application for which would be considered by the local planning authority in the first instance. Those circumstances limit the weight that I can attach to the

development options identified and they do not justify a proposal before me to which harm has been identified.

Conclusion

31. I have found no harm with respect to the living environment for future occupiers and that there would be some benefits associated to the contribution of the development to the supply of housing. However, the harm identified with respect to the character and appearance of the site and the surrounding area, and upon the living conditions of occupiers of neighbouring properties would be significant. The significant harm identified reflects conflict with the development plan and the Framework that is overriding.
32. For the reasons given above and taking all other matters into account, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR