
Appeal Decision

Site visit made on 31 January 2017

by **Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC**

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

Decision date: 17th February 2017

Appeal Ref: APP/P4415/W/16/3160999

8 Penny Piece Place, North Anston, Rotherham, S25 4JZ

- 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 and Mrs Duroe against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2016/0794, dated 16 June 2016, was refused by notice dated 11 August 2016.
 - The development proposed is the erection of dwelling house and associated access at land to rear 8 Penny Piece Place North Anston Rotherham.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of dwelling house and associated access at land to rear 8 Penny Piece Place North Anston, Rotherham, S25 4JZ in accordance with the terms of the application, Ref RB2016/0794, dated 16 June 2016, subject to the attached schedule of conditions.

Procedural Matter

2. I have taken the description of the development from the appellant's appeal form which reflects the description given in the Decision Notice. While I understand that the Council did not consult the appellant's on the revised description, the amendment is more precise than the description given in the application form as a "*proposed new 4 bedroom dormer bungalow*" given that the proposed development would be over 3 floors.

Main Issues

3. The main issues are the effect of the proposed development upon (a) the living conditions of occupants at No 8 and 9 Penny Piece Place in respect of outlook and (b) the character and appearance of the area.

Reasons

Living Conditions

4. The appeal plot forms part of the rear garden area to No 8 Penny Piece Place. No 8, as well as a number of other dwellings along the eastern side of this road, was built into a former quarry. As such part of the rear garden is in an elevated position, assessed from a lower garden area via steps which transcend a steep cliff face.
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5. The proposed dwelling would therefore be in an elevated position in comparison to dwellings along the cliff bottom at Penny Piece Place. Accommodation would be provided over 3 floors, however, due to the sloping nature of the site and the design of the dwelling which includes rooms within the roof, it would have the appearance of a 1 ½ storey dwelling.
6. As demonstrated by the submitted plans which show a 25 degree line to the cliff bank, and from my own observations on site, the outlook from No 8 is currently dominated by the presence of the tall cliff face within the rear garden. While the proposed dwelling would be visible from No 8, as well as other neighbouring dwellings, it has been positioned to be forward in the plot, thus limiting any impact.
7. Moreover, the banked area is currently landscaped and I find that the separation is as such that any further planting would complement and bolster the attractive and soft nature of this area atop of the cliff without dominating or causing any significant enclosure. On this basis I am satisfied that the development would not enclose the outlook of occupants to any further degree than is currently experienced from the proximity of No 8 to the cliff.
8. In respect of the Council's concerns regarding No 9 Penny Piece Place, the dwelling would be positioned in proximity to the side boundary of this property, which also forms part of the upper rear garden area atop of the cliff. I saw that there is a tall and dense evergreen boundary hedge which provides a screen between the appeal site and No 9. Given this, I do not consider that the development would give rise to any adverse impacts upon occupants at No 9 in respect of outlook from this rear garden area.
9. On this matter, I therefore conclude that the development would not cause harm to the living conditions of occupants at Nos 8 and 9 Penny Piece Place. The development would therefore accord with the core planning principles set out under paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to secure a good standard of amenity.

Character and Appearance

10. The proposed dwelling would be accessed via Quarry Lane (the Lane), a relatively narrow rural road which serves a number of detached dwellings along its length, particularly to the northern side. A mature hawthorn hedgerow runs along the boundary of the appeal plot with the Lane.
11. The proposed dwelling would be L-shaped and would be of brick and concrete tile construction with a gabled roof and dormer windows. The existing hedgerow would be replaced with a brick wall of 1.8m in height with a gated pedestrian access and separate solid gates serving the proposed driveway.
12. Properties along the Lane are in a variety of designs and are of different ages with a mixture of more historic and modern development. The topography is also varied with properties located in elevated positions set at different distances from the Lane, with no particular building line. The character of the area is therefore mixed.
13. Boundaries along the southern side of the Lane generally comprise of mature vegetation and to the north side boundary treatments are mixed, however these are generally built walls of varying heights, with mature vegetation beyond. Given the narrow width of the Lane, I consider that the vegetation

along the south side provides relief within the street scene and gives the Lane an attractive soft and verdant character.

14. As previously stated, the dwelling is located forward within the plot, close to the boundary with the Lane. The side gable would be particularly visible from the Lane, however I do not consider this would be blank or domineering as the addition of a high level window and a decorative string course would add interest. The positioning in the plot would also not be out of keeping given the varied topography and layout of dwellings in the area.
15. However, the loss of the existing hedgerow and the proposed boundary wall and gates would introduce a tall and hard boundary treatment and a solid form of enclosure. Due to its height and materials, the impact would be overly dominant and prominent, representing an incongruous form of development in the south side of the street scene. The submitted examples of tall walls along the north side of Quarry Lane also serve to confirm the impact such structures have in the street scene. Therefore, while reasonably localised in its extent, I consider it to be harmful as it would diminish the soft green character and appearance of the Lane and in combination with the narrow width of the Lane would be oppressive and domineering.
16. Nonetheless, I am mindful that the appellant's have made it clear that they would be willing to reduce the size of the wall or to look towards a soft planted and landscaped boundary treatment. The Council have also put forward a condition in respect of details of any boundary treatments. In light of my assessment above, I consider that a soft planted boundary would preserve the verdant character of the Lane. As such, and in accordance with paragraph 203 of the Framework, I consider that this could reasonably be conditioned in order to make the development acceptable and to preserve the character and appearance of the area.
17. On this matter, I am therefore satisfied that the development would not cause harm to the character and appearance of the area, subject to the imposition of a condition in respect of the boundary treatment. The development would therefore accord with Policy CS28 of the Rotherham Local Plan Core Strategy (2014) which requires that development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping.

Other Matters

18. Concern has also been raised by neighbouring occupants at No 7 in respect of privacy. However, while the appeal property would be elevated above No 7, and would include balconies serving bedrooms 3 and 4, I consider that the separation distance between the development and No 7 at around 25metres to be adequate to ensure that there would be no overlooking. Furthermore, the existing and proposed planting would provide further screening to reduce any perception of overlooking.
19. I note that any screening provided by trees would be seasonal and I acknowledge that trees can be affected by disease or inclement weather. Nonetheless, the Ash Tree is protected by a Tree Preservation Order and any works would require consent. Furthermore, general protection of trees during construction and replanting where there is loss can be secured by condition.

The distances between the appeal property and No 7 would also be sufficient in any case if any vegetation were to be removed in the longer term.

Conditions

20. In addition to the standard condition relating to the timescales for the development, I have conditioned the approved plans, notwithstanding the details of the boundary treatments, for the avoidance of doubt and in the interests of proper planning.
21. I have adapted the Council's suggested condition in respect of the boundary treatment to make this more precise in respect of both hard and soft elements. The imposition of such a condition is necessary for the reasons I have identified above in respect of character and appearance.
22. A condition requiring the details and submission of materials is necessary to preserve the character and the appearance of the area. For the same reasons I have imposed conditions in respect of protected trees.
23. I have imposed conditions in respect of foul and surface water drainage as well as means of drainage and materials in respect of the access driveway to ensure that there are no adverse impacts upon the living conditions of future residents of the site and local residents.
24. Conditions in respect of contaminated land and a Coal Mining Report are necessary given the former use of the site as a quarry and in terms of any stability issues. However I have consolidated and amended the Council's suggested conditions in order to be more precise.
25. For the avoidance of any doubt, due the nature of the conditions, details in respect of contamination, materials and tree protection are all necessary prior to the commencement of the development as it would be inappropriate to allow development to proceed until such details has been agreed and/or implemented.

Conclusion

26. I have found that the development complies with relevant Local Plan policies and there are no specific policies within the Framework that indicate that development should be restricted. Therefore, in accordance with paragraph 14 of the Framework, I conclude that the appeal should be allowed and planning permission granted, subject to the conditions discussed above.

C Searson
INSPECTOR

Schedule of 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: Site Location Plan, CS/01539/1B CS/01539/2B, CS/01539/2B, CS/01539/3B, CS/01539/4B and CS/01539/5C except in respect of the boundary wall shown on plans CS/01539/1B and CS/01539/5C.
- 3) The development shall not be brought into use until details of the proposed boundary treatment have been submitted to and approved in writing by the local planning authority. Details shall include hard and soft elements relating to schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate and gates or other means of enclosure, including positions, design, materials and height. Development shall be carried out in accordance with the approved details and completed prior to occupation.
- 4) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
- 5) Before the development is brought into use, that part of the site to be used by vehicles shall be constructed with either;
 - i) a permeable surface and associated water retention/collection drainage, or;
 - ii) an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

- 6) Details of the proposed means of disposal of foul and surface water drainage, including details of any off-site work, shall be submitted to and approved by the Local Planning Authority and the development shall not be brought into use until such approved details are implemented.
- 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale and any importation of topsoil/sub-soil, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be

- submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.
- 8) Prior to the commencement of development a Coal Mining Report from the Coal Authority should be obtained and any recommendations made within the report shall be undertaken in accordance with the findings of the report. The report shall be submitted to the Local Planning Authority and approved in writing and the development undertaken in accordance with the approved details.
- 9) Prior to the commencement of any development a detailed Arboricultural Method Statement in accordance with BS 5837 Trees in Relation to Design, Demolition and Construction, shall be submitted to the LPA for consideration and approval and the development shall be implemented in accordance with the approved details. The submitted details shall include a detailed Tree Protection Plan.
- 10) No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2 metre high barrier fence in accordance with BS 5837: Trees in Relation to Design, Demolition and Construction and positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.
- 11) Within 5 years of the commencement of the works no tree or hedge shall be cut down, uprooted or destroyed nor shall any tree or hedge be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree or hedge is removed, uprooted or destroyed or dies, another tree or hedge shall be planted in the immediate area and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.