
Appeal Decision

Site visit made on 26 June 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 20 July 2017

Appeal Ref: APP/P4415/W/17/3171786

1 Paddock View, Todwick S26 1JY

- 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 Tony Higson against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2016/1107, dated 18 August 2016, was refused by notice dated 31 October 2016.
 - The development proposed is erection of detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for erection of detached dwelling at 1 Paddock View, Todwick S26 1JY in accordance with the terms of the application, Ref RB2016/1107, dated 18 August 2016, subject to the conditions set out in the Schedule to this decision.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposal on the living conditions of residents of 6 and 8 The Pastures with regards to outlook and privacy;
 - The effect on the character and appearance of the area;
 - Whether the proposed dwelling would be safe from flooding.

Reasons

Living Conditions

3. The appeal site consists of a garden area to the side of 1 Paddock View, although it has been brought to my attention that the original host dwelling has been sold and is now in separate ownership.
4. The properties of 6 and 8 The Pastures are located to the north of the appeal site, with the garden of No 6 extending to the east of the site. The Council state that the proposal would be located in very close proximity to the gardens of Nos 6 and 8. However, the dwelling would be set back from the boundary which would ameliorate the impact on the neighbouring properties. Due to the arrangement of the proposed dwelling and the extent of the gardens of

adjacent plots I do not consider that the appeal proposal would have an overdominant or enclosing effect.

5. There would be a significant separation distance between the proposed house and the rear elevations of Nos 6 and 8, and I note that the Council confirm that the proposal would accord with the separation distances specified in relevant guidance¹. In this regard I consider that the proposal would not be detrimental to the amenity of occupiers of Nos 6 and 8 (or residents of any other nearby properties) as a result of an overbearing effect or unacceptable loss of privacy or light.
6. I conclude that the proposal would not harm the living conditions of residents of Nos 6 and 8 with regard to outlook and privacy. The proposal would therefore conform with the provisions of the National Planning Policy Framework and in particular paragraph 17 which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Character and Appearance

7. The appeal site is located on the entrance road to a modern housing development arranged around a cul-de-sac. It is also located to the south of The Pastures which consists of a mixture of semi-detached and detached properties fronting onto the highway. It was apparent on my site visit that there are a variety of building styles in the surrounding area and that there is no well-defined grain or rhythm to the character of the area or the street scene.
8. The Council has expressed concern that the size of the plot and the location of the proposed dwelling would create a development with a cramped appearance. However, although the garden area to the rear of the plot would be relatively restricted compared to the plots of the immediately adjacent properties, the wider area is characterised by housing development of varying density and arrangement. The proposal would also provide a suitable amenity area for residents of the dwelling, and I note that the area of the rear garden would exceed the minimum standard for a 2-bedroomed property stated in relevant guidance². Furthermore, the dwelling would be of a design that complements the frontage of neighbouring properties on Paddock View and would not appear as a cramped or contrived addition to the street scene. Therefore, despite the limited projection of the garden to the rear, the appeal proposal would not be of an inappropriate design or out of character with the grain of the wider area.
9. Taking the above matters into consideration, I conclude that the proposal will not have an adverse impact on the character and appearance of the area. The proposal would therefore not conflict with Policy CS28 of the Rotherham Local Plan Core Strategy 2014 (CS) which states, amongst other things, that development proposals should be responsive to their context.

Flood Risk

10. The Council state that the appellant has provided insufficient information in relation to how the proposed dwelling would be protected against flood risk. I have had regard to the comments from the Council's Drainage Section which

¹ 'Saved' Housing Guidance 3: residential infill plots.

² South Yorkshire Residential Guide

states that the proposal would not be affected by or cause unacceptable levels of surface water flooding, but which also raises concerns in relation to protection against flood risk.

11. In response, the appellant has provided an addendum to the original Flood Risk Assessment which includes a topographical survey of the site and the surrounding area. The addendum undertakes an analysis of water levels during a flooding event based on Environment Agency data and relates this to the finished floor level of the dwelling. Based on this analysis, the addendum concludes that the finished floor levels will ensure that the development is safe during a flood event. The Council has provided no substantive evidence to contradict this, and in my view the appellant has suitably addressed this matter.
12. Therefore, on the basis of the evidence before me I conclude that the appellant has provided sufficient information to demonstrate that the dwelling would be protected against flooding. The proposal would therefore comply with Policy CS25 of the CS which regards to dealing with flood risk.

Other Matters

13. There is a Silver Birch tree within the site which is part of a wider Tree Preservation Order and which may be adversely affected by the development. However, I note that the Council's Tree Service does not object to the loss of the tree provided that it is replaced. I therefore consider that this matter could be suitably addressed by a condition to this effect placed on the appeal proposal.
14. I have had regard to the comments raised locally in relation to the proposal. Whilst I note that there have been a number of proposals for this site which have previously been considered by the Council, I have judged this proposal on its own merits. In relation to highway safety I saw that suitable access and parking would be provided and I note that the Council's Transportation Unit raised no objections to the proposal. I note the comments made in relation to the construction of the proposal, but any disturbance would be for a limited period of time and no substantive evidence has been provided to me to demonstrate that the highway is not suitable for construction traffic.
15. In relation to property values, the Planning Practice Guidance states that the protection of purely private interests such as the impact of a development on the value of a neighbouring property could not be a material consideration³. Fire regulations are more suitably addressed under the building regulations and do not fall within the remit of this planning appeal. I am mindful of the human rights of residents in the area, but for the reasons stated above I do not consider that the effects of the proposal would be incompatible with the Human Rights Act.

Conditions

16. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance and retained Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. As a result, I have amended some of them for clarity.

³ Paragraph: 008 Reference ID: 21b-008-20140306

17. In addition to the standard 3 year time limitation for commencement, I have imposed a condition requiring the development to be carried out in accordance with the submitted plans. A condition requiring the submission of a scheme of surface and foul water regulation prior to commencement of development and occupation is appropriate in the interests of proper site drainage. A condition in relation to boundary treatment is required in the interests of character and appearance. Conditions requiring a scheme for a replacement tree prior to the commencement of development and subsequent replacement are required due to the effect on a protected tree and the character and appearance of the area.
18. I do not, however, find it necessary to require a condition in relation to landscaping as there would be little scope for this outwith the private garden of the proposal. Nor do I find that a separate condition is required in relation to the drainage of that part of the site used by vehicles as that would fall within the scope of the condition in relation to drainage.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I consider that the appeal should be allowed.

David Cross

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: Location Plan Scale 1:1250, Drg No TP-02/1 dated May 15 and Drg TP-02/3 dated Oct 15.
- 3) No development shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) No development shall take place until details of the boundary treatment have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) The dwelling hereby permitted shall not be occupied until works for the disposal of surface and foul water shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

- 6) No works or development shall commence until a full specification of replacement tree planting has been submitted to and approved in writing by the local planning authority. The specification shall include the quantity, size, species, and position of the tree to be planted, how it will be planted and protected and the proposed time of planting. The tree planting shall be carried out in accordance with the approved specification.
- 7) If, within a period of 5 years from the date of planting, the tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.

END OF SCHEDULE