



Appeal Decision

Site visits made on 15 January 2018 and 5 February 2018

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2018

Appeal Ref: APP/J4423/W/17/3179920

Land to the rear of 27-29 Cairns Road, Crosspool, Sheffield S10 5NA

- 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 M Mulqueen against the decision of Sheffield City Council.
 - The application Ref 17/00256/OUT, dated 19 January 2017, was refused by notice dated 19 May 2017.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with approval sought for details of access only. Landscaping, appearance, layout and scale are reserved matters for future approval. I have determined the appeal on that basis with the details of landscaping, appearance, layout and scale shown on drawing number 16-012-01 treated as only illustrative.
3. I was unable to obtain access to the site during my visit on 15 January 2018. However, in accordance with a prior request made by an interested party I observed the site on that date from a neighbouring property (No 25). Access to the part of the site within the rear garden of No 27 was subsequently made available to me during a visit on 5 February 2018. The remaining part of the site lies to the rear of No 29 as indicated on the submitted plans and the site address given by the appeal form which I have adopted accordingly. Correspondence from the occupier of No 29 has confirmed that access will not be granted to the part of the site within the ownership of that property for the purposes of the appeal. Nonetheless, I am satisfied that the vantage points made available to me from within the curtilages of Nos. 25 and 27 are sufficient to enable full assessment of the proposal before me.
4. The appellant has provided a Certificate B with respect to notices served on land ownership interests prior to the submission of the application and the Council accepted the application as valid on the basis of the evidence provided. The owner of No 29 has expressed concern that a Certificate B notification relating to their land was not received. However, even if that were the case, the owner of No 29 has been made aware of the proposed development during both the planning application and appeal process and subsequently provided responses to consultation relating to both. In such circumstances, in my judgment, no injustice has been done and no one has been unfairly prejudiced.

The grant of planning permission would not negate or supersede private legal rights relating to land ownership in any case. Accordingly, issues relating to land ownership have no material bearing on my assessment of the planning issues in this appeal which I proceed to consider below.

Main Issues

5. The main issues are:

- the effect on the character and appearance of the area, and;
- the effect on the living conditions of occupiers of neighbouring properties, with particular regard to Nos. 27 and 29 Cairns Road and matters of noise, disturbance and privacy.

Reasons

Character and appearance

6. The appeal site consists of a substantial section of the existing long rear gardens of both Nos. 27 and 29 Cairns Road which lie within a Housing Area as identified by the Proposals Map of the Sheffield Unitary Development Plan (UDP), adopted March 1998. The area has a variety of different properties which face Cairns Road, with a mix of bungalows and two storey dwellings of different styles.
7. The dwellings facing Cairns Road on its southern side are mainly two storey semi-detached properties with consistent building lines and proportions, but some variations in materials and extensions that have taken place. Nos. 27 and 29 each form a separate half of semi-detached pairs of houses, the latter pair located on higher land levels consistent with the general increase in land and slab levels in a western direction on Cairns Road. The slab levels of both Nos. 27 and 29 are located at a considerably higher land level than the widest part of the proposed site because the long rear gardens progressively slope downwards towards the rear boundary with neighbouring school grounds.
8. Views of rear gardens, including the site, are largely screened from public vantage points on Cairns Road but are visible from the rear elevations of properties. From those perspectives, the long rear gardens are a feature of properties on the southern side of Cairns Road from No 25 onwards with a noticeable regularity and verdant character arising from an abundance of trees and landscaping that affords a sense of tranquillity in an otherwise suburban setting. Consequently, the site in its current form as separate rear gardens associated with Nos. 27 and 29 makes a positive contribution to the character and appearance of the immediate setting in that respect.
9. The proposed development would introduce a dwelling in a tandem position relative to Nos. 27 and 29 in a backland position that would reduce the overall depth and proportions of each rear garden. The dwelling would be accessed via a driveway between the properties and would not be visually prominent in the Cairns Road street scene due to the position of dwellings and differences in land levels. However, a dwelling sited beyond the remaining rear gardens of Nos. 27 and 29 would be a prominent and incongruous feature when viewed from the rear elevations of neighbouring properties relative to the longer surrounding gardens and would harmfully disrupt the characteristic spaciousness and verdant nature of the area. Consequently, the resultant

scale, form and massing of built form arising from the introduction of a dwelling in the location proposed would cause significant harm to the character and appearance of the area.

10. Having regard to the above, I am conscious that the trees and mature planting within the site are not subject to statutory protection and are not of value as individual tree specimens. Furthermore, replacement landscaping could be provided as part of a reserved matters submission, together with materials which would complement those surrounding. Nonetheless, it is the presence of the dwelling in itself that would appear out of place relative to the prevailing pattern of built form and the characteristic spacious and verdant setting of its immediate surroundings. In that regard, although outbuildings are located within the rear gardens of existing properties they do not replicate the harm that would result from the proposal. The modest buildings and structures that exist are subservient to their verdant surroundings in a manner that could not be achieved by a dwelling and the associated works within the site as proposed.
11. In reaching the above findings, I have taken into account that there are two existing bungalows (Nos. 23a and 23b) close by to the east that are located in a backland position with a considerably larger footprint of built form than other dwellings located closer to Cairns Road. Nevertheless, I do not have the full details of the circumstances which led to those bungalows being developed or the development plan policies which applied at the time. Furthermore, I observed that their design, position and layout are very much an exception within the locality. In that respect, the unique plot size and shape as part of land close to a bend in Cairns Road after No 25 affords a transition to the different character of Nos. 1 - 23 (odds) beyond which have a different alignment and shorter garden lengths. In such circumstances, the existing bungalows addressed as Nos.23a and 23b do not represent a direct parallel with the proposal before me and I do not consider that their presence should justify an erosion of the long rear gardens from No 25 onwards.
12. I conclude that the proposed development would significantly harm the character and appearance of the area. The proposal, therefore, conflicts with Policies CS31 and CS74 of the Sheffield Development Framework Core Strategy (CS), adopted March 2009, and Saved Policies BE5 and H14 of the UDP. When taken together the policies seek high quality development which, amongst other things, respects the distinctive features of neighbourhoods, safeguarding and enhancing its areas of character, with new buildings complementing the scale, form, style and character of neighbouring buildings or avoiding the loss of existing garden space which would harm the character of the neighbourhood. The policies are consistent with the design objectives of the National Planning Policy Framework (the Framework).

Living conditions – neighbouring properties

13. As previously mentioned, the proposed dwelling would be accessed from Cairns Road via a new driveway between the side elevations of Nos. 27 and 29. The driveway would necessitate the removal of an existing boundary wall and fencing along the shared boundary, whilst replacing a section of the existing driveways to each property at the front and the individual pedestrian accesses which currently serve the rear garden of the respective properties.

14. Nos. 27 and 29 have windows in the side elevation directly adjacent to the location of the proposed access. Although the side windows appear to serve non-habitable rooms, the properties do not currently have existing vehicular access beyond the parking areas on the frontages of the dwellings. Consequently, the development would introduce vehicle movements and additional pedestrian activity to the side and rear of Nos. 27 and 29. Such movements would not be in the control of the occupants of the existing properties either side of the access, unlike existing pedestrian movements associated with access to the existing private rear gardens. In that respect, the side and rear windows and rear gardens of both properties would be exposed to vehicles and pedestrians passing in close proximity resulting in the potential for harmful noise, disturbance and a loss of privacy. The potential impact would be exacerbated during periods of darkness as occupants would likely suffer from general disturbance arising from headlights of vehicles using the driveway, particularly at the rear which would result in a significant reduction in the level of tranquillity that the rear gardens and facing habitable rooms currently enjoy.
15. Having regard to the above, even for the modest scale of development proposed, the occupants of the properties to either side of the driveway are likely to experience unacceptable levels of noise and disturbance and a harmful loss of privacy associated with vehicular and pedestrian movements passing in such close proximity to existing windows and rear gardens. The harmful effect upon the rear gardens in terms of noise and privacy could be reduced by the provision of an acoustic fence and screening adjoining the driveway, but would not fully overcome the disturbance to habitable rooms arising from vehicle movements at the rear including the use of headlights during periods of darkness.
16. The creation of a driveway to access the backland site would require significant engineering operations as the slab level and surrounding land levels of No 29 are much higher than those of No 27. There is no substantive evidence before me that such works would not be feasible with respect to the ground conditions and the structural integrity of surrounding properties. Furthermore, details of the methods of construction could be secured by condition if the appeal were to be allowed. Nevertheless, it is reasonable that the extent of works required, together with the movement of vehicles and materials along the narrow driveway to the backland site, would have the potential to generate significant levels of noise, vibration and disturbance for the occupiers of Nos. 27 and 29 due to the very close proximity to the side walls, windows and rear gardens of those properties. The duration of the adverse impact in that respect could be reduced by controls upon construction hours, but would not overcome the harm identified. Whilst the harmful effect on the living conditions of neighbouring properties during the construction phase would be temporary, when taken together with the harm identified relating to the dwelling once occupied, it adds to my concerns that the proposed means of access to the site would be unacceptable.
17. In reaching the above findings, I have taken into account that the bungalows addressed as Nos. 23a and 23b are accessed from a shared driveway between Nos. 23 and 25 with the section closest to Cairns Road being of a similar width to the proposed driveway. However, due to the varied orientation of the building lines of Nos. 23 and 25 respectively, the shared driveway widens further into the site with greater space to the side walls, windows and rear

gardens of those properties. Furthermore, the respective orientations of Nos. 23 and 25 ensure that the windows in the rear elevation of those properties have an indirect relationship with vehicle and pedestrian movements on the driveway. As such the driveway serving Nos. 23a and 23b and its relationship to Nos. 23 and 25 does not replicate the circumstances of the proposal or the harm identified. In any case, the appeal proposal is necessarily considered on its own individual merits.

18. Based on the illustrative layout before me and my observations, I am satisfied that a suitable living environment for future residents of the dwelling, in terms of outlook, privacy and amenity space, could be achieved subject to appropriate details in terms of the reserved matters of appearance, landscaping, layout and scale. An appropriate design in that respect, when taking account of the reduced land levels relative to the properties closer to Cairns Road, would also be capable of ensuring that the habitable windows of the proposed dwelling would not harmfully overlook neighbouring properties or their gardens, nor result in an overbearing or overshadowing effect upon their outlook. However, the absence of concern in those respects are a neutral factor and do not override the harm I have identified in relation to the living conditions of occupiers of Nos. 27 and 29 arising from the driveway access proposed.
19. I conclude that the proposed development would result in significant harm to the living conditions of occupiers of neighbouring properties. The proposed development would conflict, therefore, with the relevant Saved Policy H14 of the UDP. The policy, amongst other things, seeks that new development in housing areas would not deprive residents of privacy. The policy is consistent with the core planning principle of the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings, the scope of which also includes matters of noise and disturbance.
20. In the interest of clarity with respect to the above, although Saved Policy BE5 of the UDP was also identified by the Council's related reason for refusal on its decision notice, I find no specific conflict with that policy in terms of this main issue.

Other Matters

21. The Council has not expressed any specific concerns with respect to highway safety, notwithstanding the potential loss of parking spaces associated with the existing driveways at the front of Nos. 27 and 29. Based upon the evidence before me and my observations, I have no reason to take a different view. On street parking is a characteristic feature of Cairns Road and there was significant availability for car parking during my visits, with the frequent presence of driveway accesses providing passing places between groups of double parked cars. Whilst, I accept that demand at peak times (i.e. early mornings and evenings) is likely to be higher, I have no substantive evidence to suggest that on-street parking demand could not be accommodated locally.
22. Interested parties have drawn to my attention that accidents have previously occurred close to the site. However, there is no substantive evidence that it related to the use of existing driveway accesses. Adequate turning space would be available within the site to allow vehicles to leave the access safely in forward gear with adequate visibility in both directions for vehicles and pedestrians so as to preserve highway safety. Furthermore, the vehicle

movements associated with a single dwelling would not be so frequent as to conflict with pedestrians accessing the rear gardens of Nos. 27 and 29 via the driveway. Nevertheless, the absence of concern in those respects is a neutral factor.

23. I am satisfied that concerns raised in relation to loss of wildlife / biodiversity and means of drainage could be suitably mitigated and controlled by condition if the appeal were to be allowed. However, the absence of concern in those respects is a neutral factor.
24. I have taken into account that the development would make a positive contribution to the supply of housing including the choice of homes in an existing residential area in a relatively accessible location close to local services, facilities and public transport. However, the contribution to housing supply from a development of a single dwelling is limited and does not outweigh the harm identified relative to the main issues. In that respect, the harm identified reflects conflict with the development plan and the Framework when taken as a whole and the proposal, therefore, does not constitute sustainable development.

Conclusion

25. For the reasons set out above and having taken all other matters into account, I conclude that the appeal should be dismissed.

Gareth Wildgoose

INSPECTOR