



Appeal Decision

Hearing Held on 8 May 2018

Site visit made on 8 May 2018

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 23rd May 2018

Appeal Ref: APP/J4423/W/17/3185971

62, 64 and 66 High Street, Ecclesfield, Sheffield S35 9XD

- 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 BH Shield & Co against the decision of Sheffield City Council.
 - The application Ref 16/03410/FUL, dated 2 September 2016, was refused by notice dated 5 April 2017.
 - The development proposed is demolition of existing retail buildings and redevelopment of site to afford 12 flats with associated car parking.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by BH Shield & Co against Sheffield City Council. This application is the subject of a separate Decision.

Procedural Matters

3. It was confirmed at the Hearing that the plans under consideration are 16/07/PL01; 16/07/PL02 Rev A; and 16/07/PL03 Rev A. It was also confirmed that the relevant Proposals Map for the purposes of this appeal is the one accompanying the Sheffield Unitary Development Plan 1998 (the UDP). The emerging Draft Sheffield Plan is insufficiently advanced to carry weight.
4. During the Hearing it was agreed that, should the proposal be acceptable in all other respects, covered cycle and refuse storage and an appropriate palette of facing materials could be secured by planning condition. I therefore do not need to consider these matters further as main issues.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the Ecclesfield local shopping centre (the Centre);
 - the effect of the proposed development on the character and appearance of the area taking particular account of the proposed site layout and the scale, mass and appearance of the proposed building;

- whether or not satisfactory living conditions would be provided for future occupants of the proposed flats;
- whether or not adequate provision would be made for car parking and safe passage for pedestrians within the site; and
- the effect of the proposed development on the living conditions of occupants of adjoining properties taking particular account of privacy, outlook, noise and disturbance.

Reasons

The effect on the Centre

6. The Proposals Map shows the Centre boundary as “dog leg” in shape, with the main part extending along the north west of High Street from Sycamore Road to the Co-op car park on the corner with Primrose Drive. The appeal site is the only part of the identified Centre on the other side of High Street.
7. Schedule 1 of the Town and Country Use Planning (Use Classes) Order 1987 (as amended) (the UCO) categorises different uses for planning purposes. Policy S7 of the UDP identifies uses which are “preferred”, “acceptable” or “un-acceptable” based on the UCO classification¹. Policy S7 specifies that A1 shops are the preferred use in local shopping centres.
8. The proposed development, in terms of Policy S7, would replace a preferred A1 shop use (the former pet shop at No 66 High Street currently vacant) and two identified acceptable uses: the restaurant, at No 62 High Street, and the estate agency at No 64 High Street, with housing. Class C3 housing is identified as an acceptable use in local shopping centres for the purposes of Policy S7. Whilst the Policy itself does not indicate that any one of the acceptable uses should take precedent over any other, the supporting text indicates that other uses such as banks, cafés, launderettes, offices and other business uses can complement shop uses.
9. Ground floor uses within the Centre are a mix of uses which serve the public including: retail, café/restaurant/takeaway uses, professional services, public library and hair and beauty services. At the time of the site visit I observed two vacant units and one charity shop in the defined centre. Parts of the first floors are occupied in conjunction with ground floor uses. There are some flats at first floor but no housing at ground floor level. Accordingly I conclude that, at street level, the character of the Centre is one of provision of goods and services to the public. These generate a level of economic activity and a bustle of comings and goings that would not normally feature in association with housing.
10. Policy S10(a) of the UDP allows new development or changes of use that would not lead to a concentration of uses which would prejudice the dominance of preferred uses or the principal role as a shopping centre. The supporting text indicates development should not undermine the main function or existing character of such centres including the general level of activity. Although only entailing the loss of one A1 shop, the proposed development would change the character of part of the Centre by replacing commercial uses with housing at ground floor level. Additional residents would help support existing businesses,

¹ Since the UDP was adopted there have been amendments to the classes of the UCO but the principles remain the same

but the loss of ground floor commercial space would overall diminish the economic activity, comings and goings and therefore the vitality of the Centre.

11. I acknowledge that the existing appeal premises are old, in need of structural repair and modernisation and that the loss of the existing enterprises would be unlikely to significantly affect pedestrian flows or the general level of activity in the remainder of the Centre on the opposite side of High Street. Whilst no formal assessment of the vitality or viability of the Centre has been provided, I see no reason to doubt the appellant's view that the demand for retail units has been adversely affected by the range of goods provided by the Co-op; the proximity of other large supermarket outlets; and the availability of online shopping. Nevertheless, on the balance of probabilities, modern ground floor units in this location may well attract suitable occupiers for uses that would generate economic activity and footfall and support the Centre overall.
12. For the above reasons, I conclude that the proposed development would have a harmful effect on the character and vitality of the Centre and would therefore be contrary to Policy S10(a) of the UDP. It would also be contrary to those principles of the National Planning Policy Framework (the Framework) which seek to ensure the vitality of town centres.

Character and appearance

13. Nos 62 and 64 are substantial two storey brick buildings on the back edge of the footway. The side wall of No 62 is at an angle, following the angled boundary line. There is an interesting roof design, with two large dormers to either side and a smaller central dormer. These are relatively steeply pitched and have decorative timber detailing to the front. No 66 is single storey. The appellant acquired and renovated the properties following periods of vacancies, occupying part, renting out part and establishing the restaurant at No 62. Over time a number of extensions of disparate sizes and styles have been constructed at the rear.
14. Concern has been raised about the loss of the building, which in part is over 100 years old, and has historic connections to the former Brightside & Carbrook Co-operative Store and the Co-op Guild Room. However, the buildings show significant signs of structural problems which could be difficult and expensive to renovate. Moreover, the building is not recorded as being of particular merit on any local or national list.
15. Outside the Centre, the nearby area is a mix of predominantly residential uses, with a school, and a scattering of retail and other commercial uses including a public house and a former public house, now being converted to a veterinary surgery. Buildings are a mix of old and new and exhibit great variations of sizes, designs, materials, land levels and degree of setback from the road.
16. Immediately adjoining No 62 are modern, terraced two storey houses, Nos 60C, 60B, 60A and 60 High Street. These are attached to a three storey block of flats, which 'turn the corner' of High Street and Hanwell Close. The appeal site building is at the back edge of the footway so that the side wall of No 62 and part of the roof project prominently in front of these properties. Although the proposed building would be positioned slightly back from the footway edge, it would be significantly in front of the immediately adjacent buildings.

17. The proposed building would have three full floors of accommodation arranged in two symmetrical blocks either side of a slightly recessed central element, which would contain an access arch, and which would have a slightly lower ridge line. This element would break up the overall mass of the development but only to a minor extent, as the setback would be relatively small. The side wall of the proposed building would be set at right angles to High Street with a narrow tapering area of planting adjacent to the angled extension at No 60C.
18. Although no detailed elevations of the existing buildings have been provided the Design and Access Statement indicates that the overall ridge height of the proposed building would be some 1.7m higher than the highest ridge of Nos 62 and 64. Each of the symmetrical blocks would have a slightly wider frontage to High Street and a slightly higher ridgeline than the Hanwell Close corner flats which have part of the accommodation in the roof space, albeit the site itself is slightly lower down High Street. Due to the width and height of the proposed building, the mass and relative uniformity of the roof, and the bulk at third floor and above, the proposed development would have an over dominant, obtrusive and discordant appearance in the street scene particularly as viewed relation to the adjacent two storey terraced houses.
19. For the reasons set out above I conclude that the proposed development would have a significant harmful effect on the character and appearance of the street scene. It would therefore be contrary to Policies BE5 of the UDP and Policy CS74 of the Sheffield Core Strategy 2009 (the CS) and those principles of the Framework that require good design that complements the scale and form of the surrounding buildings.

Living conditions for future occupants

20. On the day of the Hearing the Council did not provide guidelines for the amount of amenity space required for flats. The proposed layout would include small areas of planting around the site boundaries. There would be a larger area at the rear of the site which could be amenity space. The appeal site tapers towards the rear and so this area would be of an awkward shape, with two parking spaces protruding into it. As a result I consider this to be an unsatisfactory form of outdoor space for the proposed flats. Nor do I consider the availability of open space associated with the public library, or the large Ecclesfield Park a little further away, to sufficiently off set the need to provide satisfactory amenity space within the site.
21. Although not drawn to my attention whilst sitting at the Hearing, I note in passing, that the South Yorkshire Residential Design Guide 2011 (the RDG), supplied in respect of a different matter, makes reference to the extent of amenity space to be provided for flats. Had the proposal been acceptable in all other regards I would have sought the views of the parties on the relevance of the guidance to this case.
22. Each of the proposed flats would have an aspect to the front and rear of the building. At the front the outlook would be across High Street and the open space surrounding the single storey library. To the rear the outlook would be across the shared parking court and its surrounding planted areas, which although relatively small, would break up and soften the surfaced area. Outlook across parking areas is not an unexpected feature in developments of flats and allows beneficial surveillance of parking areas. Overall I conclude the outlook for occupants would be acceptable.

23. The patio doors of the proposed ground floor flats would be very close to the footway on the High Street which, adjacent to the appeal site, is relatively narrow and can be busy due to the nearby bus stop. Due to the closeness of the proposed building to the footway the front 'patio' doors of the four ground floor flats in particular would be extensively over looked by users of the footway as well as passengers in buses stopping at the demarcated bus stop. Whilst the flats could be made more safe and defensible by boundary treatment/planting, via a scheme secured by planning condition, this would not overcome the lack of privacy for future occupants of the proposed flats.
24. For the reasons set out above I conclude that the development would not provide satisfactory amenity space or privacy for future occupants of the proposed flats. Accordingly there would be conflict with Policies BE5 and H5 of the UDP in these respects and with those principles of the Framework that seek a good standard of amenity for all existing and future occupants of land and buildings.

Parking and access

25. At the Hearing event the Council did not supply evidence of expected levels of parking required for one bedroom flats. The "Designing House Extensions" Supplementary Planning Guidance from the UDP (the SPG) seeks two off-street parking spaces for two bedroomed dwellings. It was recognised at the Hearing that this would be a maximum rather than a minimum.
26. There would be one car parking space for each of the 12 flats and a cycle storage area. I consider this amount of parking would be acceptable in this location given the proximity of the site to services and public transport. The available on-street parking could be used by visitors and for any displaced vehicle parking that might arise from the two bedroomed flats.
27. Access to the parking area would be beneath the central arch. As proposed this would be wider than the existing arched vehicular access, particularly at the entrance point, and would appear to exceed the guidance in the RDG. The appellant indicated at the Hearing that the access could be a 3.5m wide carriageway with separate footway(s). In view of the solid walls to either side of the access, and as visibility splays at the junction with High Street are not shown on the plan, this would seem more appropriate in safety terms and could be secured by planning condition were the proposal to be otherwise acceptable.
28. For the reasons set out above I conclude that adequate provision would be made for car parking and safe passage for pedestrians within the site. Accordingly there would be no conflict with Policies BE5 and H5 of the UDP in these respects.

Living conditions of occupants of adjoining properties

29. The proposed development would result in windows facing towards the boundaries of No 60C and properties on Picking Lane and Hanwell Close. The proposed building would be at an angle to the rear elevations of the adjacent properties. The SPG seeks 21m between main facing windows to help preserve privacy but allows for a lesser distance where main windows are not directly facing each other. Due to the distance between the existing and proposed windows, and the oblique views between them, I conclude that the proposed

- development would not result in such an unacceptable degree of overlooking of neighbouring windows as to justify refusal for this reason.
30. Due to the position of the building close to the angled side boundaries, there would be direct over-looking from the proposed windows, at short distances, of private gardens of Nos 9 and 11 Hanwell Close and Nos 2, 4 and 6 Picking Lane in particular. However, the existing building has large windows at first floor in the main rear elevation as well as windows at first floor directly facing the boundary with No 60C and No 9 Hanwell Close. Moreover, whilst the first floors of the appeal premises are not intensively used at the moment this may not always be the case for uses associated with the ground floor uses or other uses under any permitted development rights that might apply².
 31. Over-looking from the proposed development could appear more intrusive given the number of windows proposed at first and second floor level and the closeness of the three storey building to the boundary with Picking Lane in comparison to the single storey building at No 66 and the existing gap to the boundary. I acknowledge that the windows in the rear elevation are relatively small and, in the flats, are intended to serve bedrooms. However, obscure glazing of the lower parts of the windows and the fitting of opening restrictors would reduce overlooking of adjoining properties.
 32. The proposed building, due to its height and mass so close to the rear boundary of No 2 Picking Lane, would over-dominate the rear garden of that property. This would create a gloomy feeling and poor outlook from the garden of No 2 which would be harmful to their living conditions.
 33. The proposed development would result in some improvements to outlook from other adjacent properties arising from the removal of the extensions which project from the rear of the appeal building. Moreover the proposed building would be some distance away from the rear gardens of other properties on Picking Lane and Hanwell Close and the building would project a relatively small distance beyond the side extension of No 60C. On balance I consider that the proposed development would not have such a harmful effect on the outlook from the gardens of these properties as to justify refusal for this reason.
 34. The proposal would result in a car park behind private gardens and the storage of refuse bins close to the side boundary. However, the area behind the appeal building is already used as a service area for commercial uses, including a restaurant that opens late in the evening. Whilst the level of activity seems to be relatively low at present this might not always be the case. On balance I conclude that such activities in association with a residential use would not be so disturbing compared to use as a service area for commercial uses as to justify refusal of the proposal.
 35. For the reasons set out above I conclude that the proposed development would have a harmful effect on the outlook from the garden of No 2 Picking Lane which would adversely affect the living conditions of the occupants of that property. Accordingly the proposal would conflict with Policies BE5 and H5 of the UDP in this respect and those principles of the Framework that seek a good standard of amenity for all existing and future occupants of land and buildings.

² The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended provides for certain changes of use without the need for planning permission

Other Matters

36. The Ecclesfield Conservation Area (the CA) includes that part of the High Street which runs from No 54 High Street towards Church Lane. Although the effect on the setting of the CA is not a reason for refusal of the planning application, Paragraphs 128 and 129 of the Framework require an assessment of the significance of heritage assets that might be affected by development, including any contribution to their significance made by the setting of those assets. There is some intervisibility between the appeal site and the CA and therefore the site lies within its setting.
37. It seems to me that the heritage significance of the CA derives from its historical importance as one of the oldest settlements in Sheffield where, in the mid-17th century, Ecclesfield began diversifying into iron working and there are good surviving examples of the small scale industrial workshops on which Sheffield's prosperity was based. There are modern buildings between the appeal site and the CA and I have seen no evidence to suggest that industrial activities took place within the appeal site. Accordingly I conclude the appeal site does not contribute significantly to the significance of the CA heritage asset as a whole, visually or functionally. Therefore the proposed re-development would have a neutral effect on the significance of the CA, and the way it is experienced as a whole, which amounts to its preservation.
38. I was told at the Hearing that the Council's Interim Position Statement 2017 indicates a 4.5 year supply of deliverable housing land. I have seen no evidence to indicate otherwise.
39. The appellant has cited numerous examples of other residential developments that have taken place, or which have planning permission. During the site visit I was able to see a number of these. Each application and appeal falls to be considered on its own planning merits and I have few details of the planning circumstances relevant to many of the examples cited.
40. I have found in favour of the appellant with regard to parking and overlooking of adjoining properties. Prickly planting and/or a boundary wall could improve security in the small setback from the footway, as at other developments and could be secured by condition. However, in this case there are particular, different, privacy concerns arising from the proximity of the front windows to a bus stop which appear not to be the case on the other examples cited.
41. I was able to see, during the accompanied site visit, that the raised deck amenity space at Regency Court/Primrose Drive was being used by residents and that a table/bench set is available for use by occupants of the former Methodist chapel conversion (Ref 10/01338/FUL) on an amenity area. This indicates to me the benefits of on-site amenity space of suitable size and shape whether or not some schemes appear to have little or no amenity space, such as 125/127 High Street, or as I have been informed, amenity space on a slope of 1 in 5³. From the information provided it would appear that a reasonable rectangular shaped amenity space would be provided⁴ for occupants at 445 Handsworth Road.
42. With regard to appearance, the cited examples for three storey buildings appear to differ from the proposal before me in one or more of the following

³ 16/01264/FUL Langsett Road

⁴ 16/00480/FUL

aspects: three storey elements are generally not so close to smaller buildings as viewed from the street, have a more articulated appearance, step down slopes where appropriate, and form corner statements. Accordingly none of the examples lead me to conclude the proposed development would have an acceptable appearance on this particular site.

43. I acknowledge the personal circumstances of the appellant, the aspirations for the future and the long and successful connections with Ecclesfield. However, there may well be other ways in which aspirations can be achieved and these matters do not lead me to any different conclusions with respect to this appeal.
44. A number of alterations were proposed at the Hearing, for example that angled windows could prevent overlooking, or that the amount of parking could be reduced to increase the amenity space. However, as advised in Annex M of the Planning Appeals: Procedural Guide⁵ the appeal process should not be used to evolve a scheme.

Planning Balance and Conclusion

45. The Framework indicates that relevant policies for the supply of housing should not be considered to be up-to-date if the Council cannot demonstrate a five-year supply of deliverable housing sites.
46. I have found that the proposed development would have a harmful effect on the character and vitality of the Centre. It would have a harmful effect on the character and appearance of the area, on the outlook from the garden of No 2 Picking Lane and would not provide satisfactory living conditions for future occupants of the proposed flats in respect of amenity space and privacy.
47. The proposed development would provide much needed housing on previously developed land which is a significant benefit, albeit tempered by the relatively small scale of the proposal. There would be economic benefits arising from employment during construction and additional expenditure by future residents would help support the local economy.
48. However, on balancing the above, I find that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the application of Paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan.
49. In failing to comply with parts of Policies S10(a), BE5 and H5 of the UDP and Policy CS74 of the CS the proposal cannot comply with the development plan taken as a whole. The appeal should be dismissed.

S Harley

INSPECTOR

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/677953/Procedural_Guide_Planning_appeals_version_1.pdf

APPEARANCES

FOR THE APPELLANT:

Michael Shield	Appellant, BH Shield & Co
Peter Maxted	SMP Architects Ltd
Sarah Worthington	Airedon Planning and Design
Laura Fern	Airedon Planning and Design

FOR THE LOCAL PLANNING AUTHORITY:

Farah Khalil-Khan	Planning Officer
Richard Cannon	Legal Services

DOCUMENTS submitted at or after the Hearing

- 1 Correspondence in respect of the planning application from Councillor Wilson, Yorkshire Water and residents
- 2 Extract "Designing House Extensions" Supplementary Planning Guidance from the Unitary Development Plan
- 3 South Yorkshire Residential Design Guide 2011
- 4 Photo Montage identifying ground floor uses along part of the High Street; Council Tax record of flat occupancy
- 5 Correspondence between the appellant and the Council during the course of the planning application
- 6 Emails dated 8 May 2018 from the appellant attaching copies of correspondence with the Council
- 7 Email correspondence dated 11 May and 14 May 2018 between the parties and versions of draft planning conditions
- 8 Email dated 11 May 2018 from the Council with a bundle of documents pertaining to discussions held; and correspondence during the consideration of the proposal and timeline of events
- 9 Email from the appellant dated 18 May 2018 with comments on the timeline of events