
Appeal Decision

Site visit made on 17 September 2019

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd October 2019

Appeal Ref: APP/J4423/W/19/3231550

Land adjacent to 14 James Walton Drive, Halfway, Sheffield S20 3GN

- 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 Ross Petre against the decision of Sheffield City Council.
 - The application Ref 18/04311/FUL, dated 14 November 2018, was refused by notice dated 8 January 2019.
 - The development proposed is construction of a two-storey house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has indicated that following an earlier appeal decision on this site¹, it no longer considers there to be any conflict with Policy C53 of the Sheffield Core Strategy (CS)(2009). I have had regard to this in my decision.
3. The development would require the realignment of the public footpath which runs adjacent to the site. For the avoidance of doubt, any approval for realignment would have to be sought through a separate procedure and is outside the scope of this appeal.

Main Issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area; and
 - flood risk.

Reasons

Character and appearance

5. The appeal site is an area of open space between a dwelling and a public footpath. The site is largely open, containing one large mature tree, but is otherwise overgrown with various shrubbery and grass. A row of trees has recently been planted along the edge of the site adjacent to the footpath.
6. The footpath and landscaping strip clearly form part of a contiguous network of paths and informal incidental open spaces that help to break up the housing and allow a sense of openness and countryside to penetrate the estate. There

¹ Appeal reference: APP/J4423/W/18/3214823

is evidence that the site was intended to form part of the wider landscaping scheme at the outset of the estate's development. Although the function of the site is largely informal, it still has importance from a visual amenity perspective.

7. The appellant has sought to address concerns raised in the previous appeal by reducing the width and footprint of the dwelling and proposing the realignment of the footpath. The intention of this would be to help retain a degree of space between the house and the path. The submitted plans identify a landscaped strip adjacent to the footpath along with an open area between the trees and the dwelling. However, it would be reasonable to assume that this small open area would have a more domestic appearance than at present. As well as the reduction in width, the urbanising effect of the development would be both obvious and detrimental to the existing character of the site and the street scene. Thus, even if a smaller 'buffer' were to remain, the contribution the site makes to the wider green corridor would be undermined to an unacceptable degree.
8. I acknowledge that the width of the landscape strip differs along its length, but this does not mean it is acceptable to reduce all elements to the narrowest point. Even if the Council have previously accepted the incorporation of some landscaped areas into residential gardens elsewhere, this does not mean that all forms of narrowing are acceptable in principle. I consider the obvious change to the character and appearance of the site, and its relationship with its surroundings, would detract from the well-planned nature of the estate.
9. The site is subject to a Tree Preservation Order (TPO). One tree of note would be felled as a result of the development. The appellant's tree report concludes that this tree (a Field Maple) is of 'less than average' condition. The evidence is not clear as to the tree's age or whether it is included within the TPO. There is some mention of pockets of decay and collapse of some stems, but there is no strong evidence on the overall health of the tree or its likely lifespan. While there is some discussion about the value of trees in general from a biodiversity perspective, there is little about the individual tree's value in terms of visual amenity. In my view, the tree makes a positive contribution in this respect, enhancing the quality of the site and the green corridor. The loss of the tree in addition to the other alterations to the site, would only serve to exacerbate the harm caused by the development.
10. I am mindful that the appellant has already planted several trees along the edge of the footpath. However, while these may eventually add value of their own to the corridor, this additional screening would not provide sufficient mitigation for the overall impact of the development on the visual amenity of the area. I therefore find that the development would result in unacceptable harm to the character and appearance of the area. Accordingly, there would be conflict with CS Policy CS47 and Policy LR5 of the Sheffield Unitary Development Plan (1998) which seek, amongst other things, to resist development in areas of open space that would result in over-development or harm to the character of an area.
11. There would also be conflict with the National Planning Policy Framework (the Framework). Paragraph 127 in particular requires, amongst other things, development to establish a strong sense of place and be sympathetic to local character. There would also be conflict with Paragraph 97 which states that

existing open space should not be built on unless certain requirements are met. In my view, the development has not satisfied these, particularly in respect of demonstrating the open space is surplus to requirements.

Flood risk

12. Flood risk was not an issue raised in the previous appeal. However, part of the site is within an area identified by the Environment Agency as being at high risk of surface water flooding. Footnote 50 of the Framework states that in Flood Zone 1 a site-specific flood risk assessment (FRA) should be provided on land that may be subject to other sources of flooding and where its development would introduce a more vulnerable use. This would be the case here and thus the identified risk of surface water flooding would be sufficient to merit a site-specific FRA.
13. Without a robust assessment in place, it is not possible to conclude with any certainty that the development would not result in unacceptable risks. In addition, it is not clear that the proposed mitigation measures, including the relocation of the existing storm drain, would be effective. In coming to this conclusion, I have had regard to the appellant's comments on recent evidence of surface water flooding and the effectiveness of the storm drain. These comments do not however constitute a robust assessment of the likely risks involved. Flooding and drainage may also affect whether development of any kind is achievable in principle and/or the layout of any scheme. In these circumstances, it would not be appropriate to require a FRA by condition.
14. There is, therefore, insufficient evidence to provide the necessary comfort that the site is either not subject to unacceptable flood risk or that the risks can be adequately mitigated. The Council has not identified any relevant Development Plan policies in this regard. However, there would still be conflict with Paragraph 163 of the Framework which expects development to take place in the lowest areas of flood risk within a site, that development is appropriately flood resistant and resilient, that it incorporates sustainable drainage systems and that any residual risk can be safely managed.

Other Matters and Planning Balance

15. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing land. Paragraph 11d of the Framework states that in such cases, permission should be granted unless the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
16. The delivery of a new dwelling would make a positive contribution to meeting the housing needs of the area. The site is also in an accessible location. Nevertheless, one dwelling would make only a very small contribution to the housing shortfall. The scale of the social and economic benefits of a new dwelling in this location would not therefore be significant.
17. Other than those matters discussed above, the Council has not identified any other concerns. Nevertheless, even if I were to agree with them on these matters, a lack of harm is neutral and weighs neither for nor against the development. I have noted the comments in the appellant's tree report regarding the maintenance of trees in the remainder of the landscaped areas.

However, this is largely outside the scope of the appeal and does not justify the loss of open space or the resulting effect on local character.

18. The relevant policies of the Development Plan referred to above have a high degree of consistency with the Framework. I have therefore given significant weight to the conflict with the policies identified. In conclusion, I find that the adverse impacts of the development relating to the character and appearance of the area and flood risk would significantly and demonstrably outweigh the benefits of a single dwelling when assessed against the policies of the Framework when taken as a whole. Accordingly, there are no material considerations that would lead me to a decision other than in accordance with the Development Plan or, in the case of flood risk, the Framework.

Conclusion

19. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR