
Appeal Decision

Site visit made on 19 September 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2019

Appeal Ref: APP/R4408/W/19/3228709

46 Foundry Street, Elsecar, Barnsley S74 8EQ

- 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 Peter Briggs against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2018/0941, dated 30 June 2018, was refused by notice dated 14 December 2018.
 - The development proposed is described as "demolish existing single dwelling and detached garage. Erection of 7no. detached dwellings".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal relates to an outline application. All matters are reserved for later consideration. I have therefore treated the submitted drawings showing the proposed houses as being for illustrative purposes only.
3. I note that the Barnsley Local Plan was adopted on 3 January 2019. Parties have had the opportunity to comment on this new Local Plan in the course of the appeal.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the character and appearance of the surrounding area, including the adjacent Elsecar Conservation Area.
 - b) highway safety with particular regards the junction of Fitzwilliam Street and Foundry Street.
 - c) the living conditions of the occupiers of neighbouring properties with particular regards noise and disturbance.
 - d) the living conditions of future residents of the proposed development with particular regards outside space and noise from the nearby railway line.

Reasons

Character and appearance

5. The appeal site consists of a 0.26 ha site currently occupied by a single dwelling, detached garage and a large garden. The proposed development would result in the clearance of the existing house and garage and the erection of 7no. detached dwellings.
6. The appeal site is in residential use and while the surrounding area is predominantly residential in character and in appearance, the area also includes open fields, trees and a railway line to the north.
7. I note the Council's comments with regards the site layout and the need for a sympathetic design, scale and materials. However, such issues are dealt with as reserved matters.
8. The appeal site is situated outside of but near to the Elsecar Conservation Area (CA). I have a statutory duty under Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the character or appearance of the CA.
9. I have been provided with very limited information regarding the CA, however I understand that its significance relates to the historic industrial development of the area and that the closest boundary of the CA to the appeal site is near to the junction of Foundry Street and Fitzwilliam Street. From my observations on site there appears to be a very limited visual, with the exception of long-range views, or functional relationship between the CA and the appeal site. Therefore, on the basis of the evidence before me I do not find that the proposed development would have an adverse impact on the character or appearance of the CA.
10. The consultation response from Historic England refers to a number of non-designated heritage assets near to the appeal site, including the remains of a foundry, the remains of an incline plane, a WWII air raid shelter and the remains of Milton Farm. I have been provided with very limited information regarding these assets. However, I note that the appeal site is separated from the foundry and WWII air raid shelter by an intervening residential property, No.44 Foundry Street and the other assets are also some distance from the appeal site.
11. As a result of the clear separation that I observed on site and based on the evidence before me I do not find that the proposed development would harm the significance of the non-designated heritage assets.
12. The proposed development would increase the density of residential development on the appeal site that is situated to the end of Foundry Street and is adjacent to open fields. However, the area is predominantly of a residential character and appearance and as such I find that the appeal scheme would not harm the character and appearance of the area including the CA and is not therefore contrary to Policies GD1, HE1, HE4, HE6 and D1 of the Barnsley Local Plan (2019) (the LP) and paragraphs 127 and 130 of National Planning Policy Framework the Framework), in so far as they relate to the protection of heritage assets and the character and appearance of the area.

Highway safety

13. The Council state that Foundry Street is not adopted and, in parts, is of a narrow width and is without pedestrian paths. However, at the site visit I noted the presence of street lighting.
14. The Council states that it would be necessary to upgrade Foundry Street to "highways standards" and to secure visibility splays at the junction with Fitzwilliam Street. Furthermore, the Council state that on the basis of the submitted plans these works would require land in third party ownership.
15. The appellant has not disputed the need to make improvements to Foundry Street and the junction with Fitzwilliam Street. Indeed, the Appellant asserts that the road would be brought up to highway standards.
16. However, no details as to how the road would be brought up to standard and additionally how the visibility splays at the junction of Fitzwilliam Street and Foundry Street would be created have been submitted in support of the proposed development.
17. The improvements to the road would be of benefit to local residents and as such is a material consideration that weighs in favour of the proposed development.
18. However, in the absence of any substantive details confirming that the necessary highway standards could be achieved I find that, on balance, the proposed development would harm highway safety contrary to Policy T4 of the LP.

Living conditions noise and disturbance

19. The access to the proposed development would be via Foundry Street which passes a number of residential properties, including 44 Foundry Street. The proposed development would thus result in an increase in vehicle movements along Foundry Street and a general increase of activity on the site as a result of the additional dwellings proposed.
20. The Council suggests that the occupiers of the proposed 7 units could have a total of 14 cars or more. However, I have not been provided with any substantive evidenced with regards the likely trip generation or peak time movement of vehicles on to and off the site.
21. At my site visit I noted that the front of No.44 is open to Foundry Street without any delineation to the street. Furthermore, the dwelling on No.44 is separated from the appeal site by an existing detached garage and the appeal site extends away from the neighbouring property.
22. In the absence of substantive evidence from either party, this is a finely balanced decision. On the basis of the evidence before me and my observations made at the site visit, I do not find that the proposed development is of such a scale that it would result in levels of noise and disturbance that would detrimentally impact on the living conditions of residents of No.44 or of properties along Foundry Street.

23. Therefore, the appeal proposal is not contrary to Policies D1 and GD1 of the LP and the Designing New Housing Development Supplementary Planning Document, in so far as they seek to protect residents from noise impacts.

Living conditions: outside space and impact of railway

24. The application is submitted in outline form only with all matters reserved. The appeal proposes 7no. detached dwellings on a 0.26 ha site. The Council calculates that this results in 30 dwellings per hectare and that this is low. I have treated the submitted drawings showing the layout of the proposed housing as being for illustrative purposes only.
25. As a result of the modest density of the proposed development and in the absence of substantive evidence to the contrary, I find that there is sufficient space within the appeal site to accommodate up to 7no. detached dwellings with appropriate outside space to meet the needs of future residents of the proposed dwellings.
26. The site is near to a railway line and the Elsecar railway station. At my site visit, carried out in the afternoon of a typical week day I noted that the area was generally quiet and that the trains passing the appeal site did cause some noise and disturbance. I also noted that there are a number of residential dwellings, including recent development in close proximity to the railway line without obvious or substantial noise mitigation measures.
27. However, active railway lines in close proximity to residential properties can give rise to noise and the disturbance of residents. Consequently, in the absence of any substantive evidence detailing the noise levels from the railway and any mitigation measures that may be necessary I find that the appeal scheme would fail to protect the living conditions of future residents of the dwellings.
28. Therefore, the appeal proposal is contrary to Policies D1 and GD1 of the LP and the Designing New Housing Development Supplementary Planning Document, in so far as they seek to protect residents from noise impacts.

Other Matters

29. I acknowledge the appellant's frustration after receiving what was considered to be largely positive pre-application advice from the Council prior to submitting the proposals and the communication issues between the Appellant, the agent and the Council in the course of determining the application. Whilst this is indeed unfortunate, these are matters outside of the scope of this appeal, in particular I note that pre-application advice is not binding.
30. The appellant has referred to other developments in the vicinity of the appeal site, including a residential development to the north of the railway line and a care home on Foundry Street itself. I have not been provided with all the details of these other developments, the policies or circumstances that led to planning permission being granted in each instance. In any event I have determined this appeal on its own merits.

31. The site would provide additional houses and investment in the area and these are material considerations that weigh in favour of the proposed development but do not outweigh the harm that I have identified previously.

Conclusions

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

Mark Brooker

INSPECTOR