



Appeal Decision

Site visit made on 4 December 2019

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2020

Appeal Ref: APP/J4423/W/19/3237645

23 Site adjacent to Pickard Crescent, Sheffield S13 8EY

- 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 Mrs J Bassi against the decision of Sheffield City Council.
 - The application Ref 18/03980/FUL, dated 22 October 2018, was refused by notice dated 26 July 2019.
 - The development proposed is Erection of New Dwellinghouse with front garden and drive, new tree planting, rear large garden and associated works.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. Although it is common ground between the parties that the site makes no contribution to the openness of the Green Belt, it is important to consider the matter in relation to national policy. I therefore asked the Council to supply me with relevant saved Green Belt policies from the Sheffield Unitary Development Plan March 1998 (the SUDP) to enable me to give consideration to the matter.

Main Issues

3. The site is located within the Green Belt and in this context, the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and the relevant development plan policies; and if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal;
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the proposal provides for the replanting of the Ash which existed previously on the site.

Reasons

Whether Inappropriate Development and Openness

4. The Framework establishes that the Government attaches great importance to Green Belts, the essential characteristics of which are their openness and permanence. The Green Belt serves five purposes including assistance in safeguarding the countryside from encroachment.
5. For the purposes of the Framework, with certain exceptions, the construction of new buildings within Green Belts is inappropriate. Inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. The exceptions to this general principle are set out within the Framework¹, including limited infilling or the partial or complete redevelopment of previously developed land(PDL) whether redundant or in continuing use (excluding temporary buildings) which would not have greater impact on the openness of the Green Belt than the existing development.
6. The Framework defines PDL to exclude gardens in built up areas. Given that the site is garden, and no other exception being applicable, the proposal constitutes inappropriate development, which the Framework establishes should not be approved except in very special circumstances.
7. Whilst the proposal is inappropriate development, I do not find there to be a significant detrimental effect on openness, given the location of the site and the context of other nearby development.

Other considerations

8. The site is located on the site of a former college and forms part of the garden area of a dwelling, which itself is part of a larger estate. No part of the site abuts the remaining undeveloped part of the Green Belt, nor is the site prominent from there and as part of a larger estate, the site no longer contributes to the openness of the Green Belt.
9. Therefore, I conclude that the proposal constitutes inappropriate development, which the Framework establishes should not be approved except in very special circumstances. The location of the site within a built up area constitutes very special circumstances which clearly outweigh any harm to the openness of the Green Belt and inappropriateness. The proposal is therefore in conformity with Policies GE1, GE3 and GE5 of the SUDP which allow development in the Green Belt where there are very special circumstances, or where housing development would be with an existing group of buildings.

¹ National Planning Policy Framework (NPPF) February 2019 paragraph 145

The character and appearance of the area

10. The appeal site is within a modern development of mainly 2 storey houses. The property is typical of many of the other houses on the estate except that it has a large side garden, formerly containing a large Ash tree, part of a grouping of trees and subject to a preservation order. For that reason, the existing garden area is large in proportion to the size of the property. On my site visit I noted the remaining stump of the tree. Under the proposal, the existing dwelling would retain a good sized garden to the rear whilst the proposed dwelling would have a modest sized garden but more than adequate to provide outdoor space for future occupiers.
11. The proposed location, scale, elevational treatment and materials to be used would result in a dwelling, as shown on the amended plans, in keeping with the character of the estate. There would be some harm to the overall character and appearance of the area through some limiting of views towards the group of mature trees to the rear of the site. Although the gap between nos 23 and 25 would be reduced in size, an open grassed area would be retained, possibly part of the garden area to one of the other houses, and views towards the trees would not be wholly lost.
12. This loss of character alone would not be of such significance as to provide an overriding reason to dismiss the appeal. Paragraphs 59 and 68 of the Framework support the drive to boost the supply of homes and lend support to the development of small and medium sized windfall sites and the benefits that using suitable sites within settlements can bring. The proposal can be considered such a small site, and the limited harm which I have identified should be weighed against the benefit of providing a dwelling.
13. The Council has referred to Policy GE15 of the Sheffield Unitary Development Plan² (the SUDP) in support of its first reason for refusal. The policy relates to the protection of trees and woodland. Given that there are no trees within the site at the present time the policy is not directly relevant to this main issue.
14. I therefore conclude that the proposal would not result in unacceptable effects on the character and appearance of the area, and would therefore comply with Policies BER5 of the SUDP and Policy CS74 of the Sheffield Development Framework Core Strategy³ (the Core Strategy) which require, amongst other things, that development should be well designed to respect the local townscape character and complement the scale and style of the surroundings, and the Framework which seeks to ensure that development protects and enhances the environment, promotes the effective use of land and achieves well designed places.

The proposed replacement planting

15. The proposal is that the Ash which has died and been taken down would be replaced by a new tree within the rear garden area of the new dwelling, plus two further trees to the front. The tree species would be subject to agreement with the planning authority, a matter which could be controlled via condition.
16. The two new trees to the front would be close to the proposed dwelling. For this reason they would always be 'street trees' and would need to be of

² Adopted March 1998

³ Adopted March 2009

appropriate species with limited growth potential. That does not mean they would have no value in terms of the appearance of the area, but they would not, nor are they intended to be, a replacement for the lost Ash which from the size of the stump was clearly a forest scale tree.

17. The proposed replacement tree within the rear garden would be located towards the rear of the plot, closer to the other protected trees within the group. It would, once established, be visible from within Pickard Crescent where the drive leading to nos 25 – 29 meets the estate road. However, it would be much less prominent than a replacement tree planted at or close to the position of the original Ash.
18. The Planning Practice Guidance is clear that where a dead tree is removed, following 5 days' notice having been given to the local planning authority, a landowner has a duty to plant replacement tree⁴. Section 206 of the Act⁵ requires a tree of an appropriate size and species to be planted at the same place as soon as reasonably possible.
19. The appellant has suggested that for arboricultural reasons it would be inadvisable to replant the tree in the same position as the previous Ash tree, although this statement is unsupported by a report by an appropriately qualified person. I accept that for practical reasons it may not be possible to replant in exactly the same location, however the position now proposed to the rear is not one that can reasonably be considered to be the same place.
20. It is clear that the replacement tree, irrespective of the location, will take many years to grow to a size with the presence of the original tree. However, as a replacement tree matures in a position much closer to the original tree than that proposed, it will have a much greater positive impact on the character and appearance of the area than a location to the rear of the garden.
21. Under the second reason for refusal, the Council refers to Policy BE5 of the SUDP which relates to building design and siting. I therefore do not see that policy as directly relevant to this main issue.
22. I therefore conclude that the proposed tree planting would not be a satisfactory replacement for the Ash which previously existed on the site, and the proposal would therefore conflict with Policy GE15 of the SUDP which protects trees and woodland and requires developers to replace any trees that are lost, and Policy CS74 of the Core Strategy which requires, amongst other things, that development should respect and enhance woodland and the aims of the Framework to achieve well designed places.

The Planning Balance

23. The Framework sets out that substantial weight should be given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness or any other harm resulting from the proposal, is clearly outweighed by other considerations. I have found that the proposal would be inappropriate development in the Green Belt, but that the very special circumstances which I have identified provide compliance with Policies GE1 and GE5 of the SUDP and the Framework. This is a neutral factor in the planning balance.

⁴ Planning Practice Guidance Paragraph 079 Reference ID: 36-079-20140306.

⁵ The Town and Country Planning Act 1990 (as amended)

24. Setting aside the issue of the replacement for the Ash, the proposal would not have an unacceptable effect on the character and appearance of the area and would be in accordance with Policies BE5 of the SUDP of the and Policy CS74 of the Core Strategy, and the Framework which supports the development of windfall sites within settlements, and the efficient use of land where that would safeguard the environment and be sympathetic to the local character. The absence of harm is a neutral factor and whilst I recognise that there would be some benefit, this would be limited to a single dwelling. This is therefore a matter which I give moderate weight in my decision
25. I have found that the proposed replacement tree planting would not be in the same place as the protected Ash which has been lost. This is a statutory requirement of the Act and therefore a matter to which I must give considerable weight in the planning balance. I have also found that in this respect the proposal would not be in conformity with Policy GE15 and Policy CS74 of the Core Strategy and the Framework. The foremost consideration in my decision is the development plan, unless material considerations indicate otherwise, and I do not find that any such other considerations outweigh the conflict with the development plan which I have identified.
26. I therefore find that the planning balance weighs against the proposal.

Conclusion

27. For the reasons set out above, and taking into account all other matters raised, the appeal is dismissed.

Tim Wheeler

INSPECTOR