



Appeal Decision

Site visit made on 9 September 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th September 2020

Appeal Ref: APP/J4423/W/20/3254727

Smithy Moor Avenue, Stocksbridge, Sheffield S36 1EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Monfredi against the decision of Sheffield City Council.
 - The application Ref 19/03385/FUL, dated 10 September 2019, was refused by notice dated 23 December 2019.
 - The development proposed is the erection of 1 No, split level, two-storey four bed dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development upon the character and appearance of the street scene with particular reference to its scale and the removal of 5 trees;
 - The effect of the proposal upon the living conditions of future occupants and those living at 16 Newton Avenue with particular reference to privacy; and
 - Whether the information provided in support of the proposal is sufficient to allow an informed evaluation in regard to coal mining risk and land contamination.

Reasons

Character and Appearance

3. The appeal site is quite a steeply sloping area of overgrown ground located close to, and at the end of, a cul-de-sac called Smithy Moor Avenue and the rear of 16 Newton Avenue in Stocksbridge. At the base of the slope is a single garage accessed from the end of the cul-de-sac via a short driveway of about a car's length. The site also includes a row of 5 quite large trees.
4. The proposed development comprises the demolition of the single garage and the erection of a split level, 2-storey 4-bedroom detached dwelling accessed from the cul-de-sac. Parking for 3 cars would be provided on spaces located where there are currently 5 mature trees.

5. The cul-de-sac is aligned with the side of the valley with those dwellings on the south side standing above the road and those on the north sitting below. The length of cul-de-sac closest to the appeal site comprises predominantly 2-storey dwellings, incorporating front gardens and driveways causing them to be set back from the road. A line of trees, bushes and brambles towards the end of the cul-de-sac on its southern side provides an important element of greenery and helps to soften the landscape.
6. The proposed dwelling would occupy the full width of the turning circle and would face down the cul-de-sac. It would sit almost flush with the pavement kerb and would include an area of garden to the rear. Its construction would result in the removal of what is quite a dilapidated garage and the tidying up of an overgrown area of vegetation climbing up the bank to the rear of No 16. However, its immediate proximity to the cul-de-sac would give it a dominant, overbearing quality and make it look out of place in comparison to the neighbouring dwellings.
7. The 3 car parking spaces would be located a few metres before the turning circle, at the head of the cul-de-sac, in that part of the site occupied by some quite large trees. Due to the slope there would be a brick retaining wall at the back of the 3 spaces. These trees lie outside the site on Newton Avenue that was granted planning permission for the construction of 6 houses. Notwithstanding the intention to retain other trees on the site the loss of these 5 prominent, quite large trees would diminish the level of visual separation with the rear elevations of the 6 dwellings now under construction and would adversely affect the character and appearance of the street scene.
8. For the reasons given above the appeal proposal would harm the character and appearance of the street scene. It would therefore fail to accord with Policies BE5 and H14(a) of the Sheffield Unitary Development 1998 (UDP) which seek to ensure that new development respects the form of surrounding buildings and is well designed. It would also fail to accord with Policy CS74 of the Sheffield Development Framework Core Strategy 2009 (CS) which seeks to ensure that new development is well laid out and enhances the landscape character of the city's neighbourhoods.
9. Finally, it would fail to accord with the advice set out in Paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) that new development should be well designed and respect the character of neighbouring areas.

Living Conditions

10. According to the Council the rear elevation of the proposed dwelling would be about 16.5 metres away from the rear elevation of No 16. No 16 would sit almost the equivalent of 2-storeys above the appeal dwelling albeit that they would be at a slightly obtuse angle to one another. A fence and some planting would provide some element of visual mitigation but there would be a clear line of sight from the first floor of No 16 to the windows on the ground and first floor of the appeal dwelling.
11. The Council advises that the facing windows of habitable rooms should be at least 21 metres from each other, and possibly further where there is a difference in elevation. However, where the windows are not at 180 degrees with one another the level of separation can be reduced.

12. In this instance, given that the level of horizontal offset would not be very great and given that there would be quite a considerable elevational difference the occupants of the proposed dwelling would suffer an unacceptable loss of privacy and thus an unacceptable diminution in living conditions. The occupants of No 16, however, would not suffer any significant loss.
13. For the reasons above the development proposal would fail to provide for the satisfactory living conditions of the future occupants of the proposed development. It would, therefore, fail to accord with Policy H14(c) of the UDP which seeks to protect the privacy of future occupants.
14. Furthermore, it would fail to comply with the advice set out in the Council's Designing House Extensions: Supplementary Planning Guidance from the UDP (undated) that the windows of habitable rooms should be separated by a distance of around 21 metres. Although the guidance applies to what is quite a vintage UDP the principles concerning separation distances have changed little, if at all, and therefore I accord the document considerable weight.

Supporting Information

15. The planning application included documents entitled 'Report on Site Investigation: Land at Newton Avenue, Deepcar, Stocksbridge', dated 3 April 2004 and prepared by Eastwood & Partners ('the Eastwood report'), and 'Site Investigation Report: Newton Avenue, Deepcar, Stocksbridge' (Report 375041SI) dated August 2010 and prepared by Abbeydale Building Environmental Consultants Ltd ('the Abbeydale report'). These documents were prepared for the planning application submitted some years ago for 6 dwellings on the adjacent site.
16. The area subject to investigation in the Abbeydale report (see Figure 2 – No 375041) did not cover the northern most part of the planning application site (a strip of land north of the garage and close to the entrance to the footpath at the end of the cul-de-sac) (see Location Plan – Ref GD/2019/19.078 – Drawing No PL00). This omission meant that the Council could not fully and properly evaluate the potential risks to human health and the environment that could arise from the proposed development.
17. Furthermore, whilst the area subject to the investigation in the Abbeydale report did include most of the site subject to this appeal, the 4 openhole boreholes dug to reveal the depth of the bedrock, the Coking Coal and dip of strata, were located on the upper part of the site where the 6 dwellings would be located. Consequently, they yield no information about the site subject to this appeal.
18. A letter to the Appellant's architects 22 June 2020 from Eastwood & Partners acknowledges that further work in the form of a Phase 1 and a Phase 2 ground investigation of the plot would be required. Given the potential risks to human health and the environment these works should be conducted prior to the determination of the application rather than afterwards as part of a condition to a planning approval.
19. For the above reasons, the Council was not provided with sufficient information to allow it to make an informed evaluation of the proposed development. Thus, the proposal would not comport with the advice set out at Paragraph 178c) of the Framework that adequate site investigation information is available to

inform an assessment of risk to human health and the environment. It is not possible to say whether the proposal comports with Paragraph 179 of the Framework as there is inadequate information to determine whether the site is affected by contamination or land stability issues.

Other Matters

20. The proposal would result in the effective use of a brownfield site and so comport with the advice at Paragraph 117 and 118 of the Framework. Furthermore, the Council only has a 4.5-year of housing land and therefore falls short of the 5-year requirement set out at footnote 7 of the Framework. Consequently, Paragraph 11 of the Framework is engaged. The development proposal would contribute towards addressing this housing land shortfall, albeit very marginally.
21. The Development Plan is not up to date. However, as set out in this Decision Letter, the proposal would fail to comport with the Framework due to the significant harms and omissions identified above. Thus, the benefits of the proposal would not significantly and demonstrably outweigh these significant shortcomings when considered against the Framework taken as a whole.

Conclusion

22. For the reasons set out above the appeal should be dismissed.

William Walton

INSPECTOR