



Appeal Decision

Site visit made on 8 September 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 September 2020

Appeal Ref: APP/J4423/W/20/3251118

Curtilage of 21 Slayleigh Lane, Sheffield S10 3RF

- 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 Mr Colin Mackenzie against the decision of Sheffield City Council.
 - The application Ref 19/01356/FUL, dated 8 April 2019, was refused by notice dated 25 October 2019.
 - The development proposed is described as the 'demolition of existing garage to rear of 21 and erection of a new dwellinghouse with associated access driveway'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed development was changed during the planning application process at the request of the Council. The changes included the retention of the garage; the demolition of a bay window on the western side of 21 Slayleigh Lane to allow for vehicular access to the rear; and, changes to the proposed dwelling which effectively reverse its layout, in light of the changed vehicular access.
3. The Council's Decision Notice contains a number of significant errors. The description of development still refers to the demolition of the existing garage, and the list of drawings the Council states it took into account in refusing planning permission are not consistent with each other.
4. Drawing Nos (PL) A300 Revision A; A301 Revision A; and, A210 Revision A, show the driveway to the proposed dwelling along the eastern boundary of the rear garden of the host dwelling – as was originally proposed. Drawing (PL) A200 Revision C has not been provided but purports to show the amended scheme layout with the retained garage and the rear access driveway down the western side of the host dwelling.
5. From the Council's Officer report and statement, and from the appellant's statement of case, it is clear that the appeal development would be the scheme that was amended during the application process.
6. Notwithstanding the errors on the Council's Decision Notice, I am satisfied that Drawing Nos (PL) A300 Revision B; A301 Revision B; and, A210 Revision B, together with A200 Revision B show the amended scheme that is the subject of this appeal.

Main Issues

7. The main issues are the effect of the proposed development on the character and appearance of the area; and, on the living conditions of the occupiers of 21 Slayleigh Lane, with particular regard to loss of privacy and disturbance.

Reasons

Character and appearance

8. The appeal site is located in a predominantly residential area containing traditional detached dwellings of different designs, many of which contain mature trees, bushes and boundary hedges in their gardens.
9. The appeal concerns a property located on the southern side of Slayleigh Lane, which slopes downwards from west to east in this vicinity. It comprises a 2-storey detached dwelling with a small garden and two vehicular accesses to the front; a garage and driveway on its eastern side and a similar-sized space on its western side, leading to a large rectangular garden to the rear. The rear garden slopes downhill, away from the existing dwelling and contains a grass lawn and generally mature boundary hedges and border planting.
10. There are similar detached dwellings with large rear gardens to the east of the appeal site along Slayleigh Lane, with Fulwood Sports Club¹ (FSC) to the west. Adjacent to the end of the rear garden and to the rear of the FSC is a backland housing development behind 12/14 Canterbury Avenue, comprising two 2-storey detached dwellings.
11. The amended scheme that is the subject of this appeal would entail the creation of a vehicular/pedestrian access driveway along the western boundary of the property, next to the FSC. It would lead to a new 2-storey, 4/5-bedroom dwelling of a contemporary design, located towards the end of the existing rear garden². The proposed dwelling would span almost the full width of the existing garden, with two parking spaces and a turning area to its front. There would be a small rear garden area containing some retained trees and new planting by the southern end boundary.
12. The contemporary design and backland location of the proposed dwelling would be somewhat out of keeping with the predominant character and appearance of the area, which is characterised by traditional dwellings set regular distances from the streets in maturely landscaped plots.
13. However, the immediate vicinity of the proposed dwelling is not characteristic of the wider area. It contains a similar backland scheme to the south, albeit one of a more traditional design, and a substantial 2-storey brick sports hall within the adjacent FSC site.
14. An existing access from Slayleigh Lane would serve the proposed dwelling so there would be no obvious sign of a more intensive use of the site from the street. Furthermore, the sloping topography of the land, the existing mature planting and the proposed landscaping would mean that the proposal would not be readily visible from nearby streets or residential properties.

¹ Fulwood Sports Club occupies a large site and is said to include a variety of facilities, including for tennis and bowling. There are a number of buildings within the site.

² The existing garden would consequently be reduced in size but would still be generous.

15. Within this overall context, I am satisfied that the proposed dwelling would not be visually prominent or incongruous.
16. For these reasons the proposed development would not adversely affect the character and appearance of the area. It would, therefore, not conflict with Policies BE5 (Building design and siting) and H14 (Conditions on development in housing areas) of the Sheffield Unitary Development Plan 1998 (SUDP) and Policies CS31 (Housing in the south-west area) and CS74 (Design Principles) contained in the Sheffield Development Framework Core Strategy 2009, in this regard.

Living Conditions

17. As referenced above, the proposed development would entail the creation of a vehicular/pedestrian access driveway linking Slayleigh Lane and the proposed dwelling along the western boundary of the property.
18. This driveway would pass by the western side of No 21, following the demolition of the bay window and would be separated from the remaining garden of the existing dwelling by 'acoustic boundary fencing' and a 'significant' amount of new planting, the details of which could be controlled by appropriately worded conditions. No details of what would replace the bay window, such as brickwork or another window flush to the surrounding wall, have been provided.
19. However, there are two transparent ground floor windows towards the front of the western elevation of the host dwelling. There is also a transparent ground floor window on the western side of the front elevation of the building, near to the proposed driveway. To the rear, there are transparent French windows and doors on the western side of the dwelling, by a patio area.
20. No details of the layout of the host dwelling are in the evidence before me, although I note that the appellant refers to 'primary habitable rooms' that would be visible to people using the proposed driveway. From my observations on site I am satisfied that the transparent ground floor windows on the western side of the host dwelling all serve habitable rooms.
21. The proposed driveway would provide the sole means of access to the proposed dwelling for vehicles and pedestrians. The risk of overlooking of the rear garden and through the French doors/windows could be significantly reduced by the proposed fencing and landscaping by the driveway to the rear; this would also reduce the impact of glare from the headlights of vehicles.
22. However, the windows of habitable rooms on the front and side elevations would be in very close proximity to the proposed driveway and would not benefit from screening³. This would mean that pedestrians, or passengers in vehicles, using the proposed driveway would have clear views into these habitable rooms from a very short distance. Whilst such views are likely to be limited in terms of frequency and duration, they would still cause an unacceptable loss of privacy to the occupiers of the host dwelling.
23. The position of the driveway would mean that glare from vehicle headlights, and noise from passing vehicles, would be very likely to disturb the occupiers

³ Were sufficient screening to be provided to address the loss of privacy, it would have a consequentially severe effect on the outlook from these habitable rooms.

- of the host dwelling in certain rooms and at certain times. Pedestrians using the driveway may also generate sporadic noise from conversations.
24. When I visited the site mid-morning there was little noticeable noise beyond what would normally be expected in a residential area. Nevertheless, there is likely to be some further ambient noise from the operation of the FSC at certain times, as well as artificial lighting outside of daylight hours.
25. However, no detailed assessment of the existing ambient noise or artificial lighting levels; the effects of vehicles/pedestrians using the proposed driveway; or, in terms of the rear garden, the effectiveness of the proposed acoustic fence, is in the evidence before me.
26. I accept that the frequency or duration of such disturbances would be limited. Nonetheless, the effects of irregular disturbances, even for only short periods of time, are likely to be a significant interference for occupiers quietly enjoying their property.
27. For these reasons the proposed development would adversely affect the living conditions of the occupiers of 21 Slayleigh Lane, with particular regard to loss of privacy and disturbance. It would, therefore, conflict with Policy H14 of the SUDP in this regard.
28. I note that the Council also considered the proposal would conflict with Policy BE5 of the SUDP. However, I can find no particular conflict with this policy.

Five Year Housing Land Supply and Planning Balance

29. At the time that planning permission was refused for the proposal the Council could not demonstrate a five year supply of deliverable housing land with an appropriate buffer⁴. In its statement of case, the Council states that it is now able to demonstrate a five year supply of deliverable housing sites. The appellant has not disputed this. However, no substantive evidence has been provided to support this assertion and I note that the Council makes no reference to the required 'buffer', in its statement of case.
30. Nevertheless, even if I were to conclude there is a shortfall in the five year housing land supply on the scale originally indicated, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Consequently, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
31. Notwithstanding the acceptable impact of the proposal on the character and appearance of the area, this would be outweighed by the significant harm that would be caused to the living conditions of the occupiers of 21 Slayleigh Lane, in terms of loss of privacy and disturbance.

Other Matters

32. The appellant supplied examples of what they considered to be similar developments that the Council has allowed⁵. I visited these locations when I visited the appeal site. I am not fully familiar with these schemes and in any event each proposal should be considered on its individual merits with

⁴ Paragraph 73 of the National Planning Policy Framework 2019 (the Framework).

⁵ 1 Hallam Grange Rise; 68 Ranmoor Road; and, 12/14 Canterbury Avenue.

appropriate regard to the development plan and material considerations. These developments do not cause me to reach a different conclusion with regard to this appeal, as set out above.

33. The appellant makes reference to reverting to the previous scheme with the vehicular/pedestrian access along the eastern boundary of the host property, following the demolition of the existing garage.
34. Government guidance is clear that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought⁶.
35. Even if I were to accept the appellant's suggestion, the adverse impacts of the proposal on the living conditions of the occupiers of the host property would be similar and would not cause me to reach a different conclusion with regard to the appeal.
36. I note the appellant's comments regarding the future occupation of the host property, and that future occupiers would be aware of the appeal development and consequently the privacy and disturbance issues. This argument does not mitigate the harm that I have identified. It could be made for many developments that would cause unacceptable harm and is not one that I give weight to.
37. The 'Fallback position' that the appellant references would not address the harm that would be caused to the living conditions of future occupiers of 21 Slayleigh Lane, as set out above. Implementing permitted development rights would not create a separate planning unit within the appeal site, the access to which would cause the harm that I have identified.

Conclusion

38. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

⁶ Paragraph M.2.1 Procedural Guide Planning Appeals – England July 2020.