



Appeal Decision

Site visit made on 24 November 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 15th December 2020

Appeal Ref: APP/J4423/W/20/3255389

Cloverleaf Cars, Main Road, Wharncliffe Side, Sheffield S35 0DQ

- 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 Scott Leather (Erris Homes) against the decision of Sheffield City Council.
 - The application Ref 19/03142/FUL, dated 20 August 2019, was refused by notice dated 04 May 2020.
 - The development proposed is demolition of existing car showroom and workshops and erection of 14no. semi-detached split level townhouses with single integral garages and parking spaces plus associated external works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Notwithstanding the description of the development, buildings have been demolished and the site has been largely cleared. I have determined the appeal accordingly.
3. Amended plans were accepted by the Council during the time the application was being considered. I have determined the appeal on the basis of the plans that were determined by the Council, and which are listed in the decision notice. In addition, computer generated images (CGIs) that illustrate the development have been submitted with the appeal. While these were not considered by the Council, they do not introduce new information or significant amendments and I have therefore taken them into consideration.
4. The reasons for refusal include grounds relating to inconsistencies and inaccuracies in the plans, including that the appeal site includes part of the garden of 237a Main Road, which is land covered by a separate title plan. The appellant did not serve notice on the land owners who may have an interest in part of the appeal site on the basis that there would be no development in this area although this is disputed by the Council. While I have considered the effects of the proposal on the occupiers of No 237a, as I am dismissing the appeal I have not found it necessary to consider this matter further.

Main Issue

5. The main issue is whether or not the proposal would provide an adequate standard of living accommodation for future occupiers, including plot Nos 1 and 13 with particular regard to outlook and light.

Reasons

6. The appeal site is a rectangular area of land with a long frontage to Main Road. It comprises an area of hardstanding to the front of the site with a vegetated embankment to the rear that rises steeply towards the gardens of dwellings on Don Avenue. It is in a predominantly residential area at the edge of Wharncliffe Side with views across over undeveloped countryside and woodland beyond the settlement.
7. The proposal would be a linear development of 14 semi-detached properties set back from the road behind an internal mews road. Properties would be closely spaced with narrow shared pedestrian access between pairs of properties.
8. The irregular shape of the appeal site results in successively shorter plots from No 1 to No 14 respectively. As a consequence, even with the staggered building lines, the rear gardens of dwellings Nos 13-14 would be smaller than those elsewhere in the row. Moreover, by virtue of being cut into the embankment, the gardens would be split level with retaining walls between patios and raised lawn areas and again between lawn areas and the retained embankment at the top of the slope. The rear gardens of Nos 2-12 would appear to provide an adequate area of usable private outdoor space. However, this would not be the case for dwelling Nos 1 and 13 in particular.
9. There would be a marked change in level between No 1 and the neighbouring properties on Damasel Road. The plans show that the patio to the rear of No 1 would be 4-5 metres below, and the raised lawn area 3-4 metres below, the neighbouring land to the side. Given the change in levels, the properties on Damasel Road are likely to have secure garden boundary treatments. Taking into account the height of the retaining walls and the boundary treatments above, the proposal would result in a significantly poor outlook for the occupiers of No 1 from the rear of the property including the patio. Furthermore, by virtue of the orientation of the scheme, the height of the boundary and the neighbouring large tree, there would be significant shading to the rear of No 1, including the patio and garden.
10. At the northern end of the site, the short rear gardens and level changes would result in a complicated and awkward arrangement. The patio and lawn of No 12 would be over 2.5 metres higher than the patio and garden of No 13. The retaining wall with tall close-boarded boundary fence above would cumulatively result in the southern side boundary of No 13 being roughly 4.5 metres in height. By virtue of the orientation and juxtaposition of the dwellings and the height of the boundary, the rear habitable areas of No 13 including patio and lawn would be significantly overshadowed for much of the day and there would be a very poor outlook from the rear of the property.
11. The plans illustrate the rears of Nos 13-14 would be split into 3 distinct areas at different levels rising towards Don Avenue. Taking into account the shading of the patio and garden of No 13 and the steeply sloping lawns, the proposal would not provide attractive or useable outdoor space for sitting out, the drying of laundry, children's play or outdoor storage. Therefore, it would fail to provide an adequate area of private outdoor space for future occupiers of No 13.
12. The plans illustrate that the rear of No 14 would be slightly wider than that of No 13 and its patio and garden areas would not be overshadowed by the side boundary. However, inconsistencies between the plans in relation to the precise

alignment of the site boundary result in uncertainty in terms of development in this area. In this regard, amendment to the boundary of No 14 or to levels in this part of the site may further compromise the private outdoor space provision.

13. The CGIs illustrate a simple and relatively level arrangement to the rear of properties, including Nos 12-14. This is in contrast to the plans that were determined by the Council, including the Site-Massing Models & Visuals – Plot 12 to 14 (Ref 1573-127) which show steep and complicated split level rear gardens. Consequently, the CGIs do not appear to be an accurate representation of the scheme. They are not adequate to evidence the proposed levels or sections through the patio and rear garden areas and they fail to address the reason for refusal.
14. Therefore, the proposal would not provide an adequate standard of living accommodation for future occupiers, with particular regard to private outdoor space, outlook and light for the occupiers of Nos 1 and 13. It would conflict with relevant development plan policies, including Policies H14 and H15 of the Sheffield Unitary Development Plan Adopted March 1998 (the UDP). These require, among other things, that development provides adequate private gardens that ensure basic standards of daylight and outlook for all residents. This is a harm that attracts significant weight.

Other Considerations

15. The inconsistencies in the plans result in uncertainty in terms of precisely what is proposed and the impacts of such. In this regard, the parties disagree about whether or not, and the extent that, the neighbouring occupiers of No 237a would be affected by the proposal, but there is no dispute that part of the neighbouring land is within the appeal site. On the basis that the plans show excavations and retaining walls close to the neighbouring dwelling, it has not been demonstrated that adverse impacts on the occupiers of No 237a would be avoided, in accordance with the aims of Policies H14 and H15 of the UDP. This is a harm that weighs moderately against the scheme.
16. The National Planning Policy Framework (the Framework) attaches substantial weight to using brownfield land within settlements for homes. However, while it promotes the effective use of land for homes, it emphasizes the need to ensure safe and healthy living conditions. Therefore, notwithstanding that the appeal site is brownfield land, the policy support for development is not at the expense of the health and well-being of future occupiers.
17. The site is in a suitable location for new residential development, including in terms of the accessibility of services and facilities and public transport and planning permission has previously been granted for residential development at this site, most recently in 2015¹ and 2016². While the principle of residential development has been established, the earlier schemes differ from the proposal including in terms of the number of dwellings and the layout. As there are alternative schemes that would deliver similar benefits without the harm I have found, previous permissions do not provide a justification for the proposal.
18. The Council considers that the density, scale, layout and appearance of the dwellings would be acceptable, and I see no reason to disagree. There would

¹ Ref 14/03782/FUL

² Ref 15/03467/FUL

be adequate off street parking provision and there would be no harm to the safe operation of the highway. Replacement tree planting and bird and bat boxes could be incorporated into the development, although there is little substantive evidence that this would deliver net gain for biodiversity. Matters relating to drainage and land contamination could be dealt with by condition. These are requirements of the development plan and they do not weigh in favour or against the scheme.

19. The parties engaged with one another, and amendments were made to the scheme, during the time the application was being considered. Nevertheless, the amended plans were not sufficient to overcome the concerns of the Council.

Planning balance

20. The Council is unable to demonstrate a five year supply of deliverable housing sites (5YHLS). While the Council's position in 2017 was a 4.5 year supply of housing sites, there is nothing before me in terms of the current extent of the shortfall. The Housing Delivery Test measurements published in both 2018 and 2019 indicate housing delivery in excess of 110% of the housing requirement. Nevertheless, because of the provisions of footnote 7 of the Framework, paragraph 11 d) ii. Of the Framework applies.
21. While the UDP dates from 1998, paragraph 213 of the Framework states that due weight should be given to existing policies, irrespective of their age, according to their degree of consistency with the Framework. In this regard, the Framework expects development to create places which promote health and well-being, with a high standard of amenity for future users. Therefore, the conflict with Policies H14 and H15 should be given significant weight in this appeal.
22. Set against the harm identified, there would be modest economic benefits and limited social benefits. On the basis of the 2017 shortfall in the 5YHLS, and in the absence of housing figures, the proposal would likely make a small to moderate contribution to the supply of housing. The Framework supports the use of brownfield land for homes, but not at the expense of safe and healthy living conditions. Consequently, the adverse impacts on the living conditions, and therefore the health and well-being, of future and neighbouring residential occupiers would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

23. For the reasons set out above, the proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, the appeal should be dismissed.

Sarah Manchester

INSPECTOR