
Appeal Decision

Site visit made on 11 May 2021

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/J4423/W/21/3266383

Land at Rear of 17 to 31 Tetney Road, Sheffield S10 3GZ

- 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 May against the decision of Sheffield City Council.
 - The application Ref 18/01297/FUL, dated 4 April 2018, was refused by notice dated 6 July 2020.
 - The development proposed is described as erection of 6 No. townhouses.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of 5 dwellings including provision of parking and landscaping works, at Land at Rear of 17 to 31 Tetney Road, Sheffield S10 3GZ, in accordance with the terms of the application Ref 18/01297/FUL, dated 4 April 2018, subject to the conditions in the attached Schedule.

Procedural Matters

2. The description of proposed development on the planning application form differs to that on the Council's decision notice and the appellant's appeal form, the description on the latter 2 documents being the same. The appellant's appeal form states that the description has not changed to that on the planning application form, although it evidently has. Significantly, the description on the application form refers to 6 residential units, whereas the description on the decision notice and appeal form refer to 5 dwellings. Although I have not been provided with any evidence that the change in description was agreed, given that revised plans were submitted reflecting the change, that the Council Officer Report to Committee addressed the proposal of 5 dwellings, and that the appellant provides the amended description on the appeal form, I am confident that the appellant must have agreed to the change. Therefore, I have made my decision based on the following description: Erection of 5 dwellings including provision of parking and landscaping works.
3. The appellant has submitted a document entitled 'Landscape Note', produced by FPCR Environment and Design Ltd, dated August 2020. As this is after the decision date of 6 July 2020, it is information which the Council, and other interested parties, were not aware of during the processing of the application. The document includes a proposed landscape plan. As landscaping could be a matter dealt with by condition, which occupiers of neighbouring properties would not be consulted on, I am satisfied that no one would be prejudiced

should I accept the 'Landscape Note' and associated plan at this stage. I have therefore made my decision taking account of them.

4. The appellant has submitted 2 No. plans with the appeal that did not form part of the application, References 134-02-B and 134-01-C. Plan Ref 134-02-B is the same as 134-02-A except that 134-02-B depicts a line of site from the upper floor windows of the proposed dwellings towards the properties and rear gardens on Tetney Road; plan Ref 134-01-C is the same as 134-01-B except that 134-01-C depicts the distances between the proposed dwellings and neighbouring properties. Therefore, I consider that no one would be prejudiced should I accept these plans at this stage. I have therefore made my decision taking account of them.

Application for costs

5. An application for costs was made by Mrs K May against Sheffield City Council. This application is the subject of a separate Decision.

Main Issue

6. The main issue is the effect of the proposed development on the living conditions of occupiers of existing neighbouring residential properties on Tetney Road; in particular, whether the proposal would result in overlooking and/or whether it would be overbearing.

Reasons

7. The site is deemed to be part of the residential garden associated with the dwelling number 89 Darwin Lane. At the time of my visit it appeared as an overgrown mainly grassed area with substantially overgrown trees, up to around 14 m high, along the southern, western, and north-western boundaries. The site is located to the side of No. 89 Darwin Lane and to the rear of other residential properties on Darwin Lane, Tetney Road and Watt Lane. There is a significant change in ground levels across the site and in relation to surrounding properties. Thus, the site rises from south to north and south-east to north west, with the variation in height between the south-eastern and north-western corners of the garden being around 6 m. The properties on Tetney Road are much lower than the site; and the properties on Watt Lane are a little higher than the site level at its northern boundary.
8. The landscape assessment concludes that either the existing conifers could be retained, if suitably treated and maintained, OR, all or some of the existing conifers could be removed and replaced with an "instant" boundary hedge. I also note that the Council has accepted such an arrangement, subject to conditions it considers secures the relationship, on a recently approved application for 4 dwellings on the site, Ref 18/01297/FUL. I appreciate that the Council did not have the information provided in the 'Landscape Note' when determining the planning application and as such could not have been certain about the future well-being of the existing trees or whether a suitable replacement hedge was possible.
9. Plan Ref 134-02-B suggests that should the existing trees along the southern boundary of the site be reduced in height and width as proposed, then there would be no overlooking from the proposed dwellings to either the dwellings on Tetney Road or their rear gardens. Although I cannot be certain that once the trees on the southern boundary have been reduced in height and depth the

remaining foliage would provide sufficient screening, I am satisfied that the option of an "instant" hedge, if required, would provide satisfactory screening.

10. Additionally, as the proposal also includes some alterations to ground levels, the height of the proposed dwellings would be very similar to the height of either the retained trees or a newly planted hedge. Therefore, I consider that the proposed properties would not result in an overbearing relationship with properties on Tetney Road. Furthermore, as the height of the retained trees or newly planted hedge along the southern boundary would be substantially less than the existing very high trees, I consider this would be an improvement to the living conditions of occupiers of existing dwellings on Tetney Road.
11. Therefore, subject to suitable conditions, I consider the proposal would not have an overbearing relationship with, nor would it result in overlooking of, properties on Tetney Road. I therefore conclude that the proposed development would not harm the living conditions of occupiers of existing properties on Tetney Road.
12. As such, the proposal accords with Policy CS74 of the Sheffield Development Framework Core Strategy-2009, saved Policy H14 of the Sheffield Unitary Development Plan-1998 (which I consider to be consistent with the National Planning Policy Framework, the Framework, in respect of protecting the living conditions of existing occupiers), and sub paragraph 127 (f) of the Framework. Collectively, and among other things, these policies seek to ensure that new development provides high-quality living conditions for occupiers of existing properties as well as future occupiers of new development.

Other Matters

13. Representations were submitted during the planning application process and a few have been submitted with the appeal. In summary, in addition to the issues dealt with above, concerns have been raised with regard to: the extent of proposed development; the principle of development on greenfield land; design, loss of green space and the effect on the character and appearance of the area; highway matters (including the capacity of the surrounding road network, safety, access, turning and parking and refuse storage and collection); ecology; risk of flooding; setting a precedent, and the effect on living conditions and traffic flow during the construction phase.
14. I consider the density of the development to be an efficient use of land and in keeping with the density of developments within the surrounding area. I accept that development of previously developed land is the priority, both locally and nationally. However, development on greenfield sites is not excluded. Given that the site is garden associated with 89 Darwin Lane it does not constitute a green space that is accessible to the public. I note that the design concept of a short terrace of three-storey properties with flat roofs is one that has been utilised elsewhere in the City. Furthermore, the flat roof design has been used more recently close to the site on Darwin Lane. I therefore consider the proposal would not harm the character or appearance of the area.
15. I appreciate that cars do park on the streets in the surrounding area and that the surrounding roads are likely to be busy at school drop off and collection times. Nevertheless, the proposal would utilise an existing access off Tetney Road, widened to its maximum; the internal drive beyond the access area would be wide enough for cars to pass and 2 No. turning areas would be

- provided within the site. As such, I consider the access, driveway and turning areas would be acceptable.
16. The proposal would provide 2 No. car parking spaces for each dwelling within an open fronted bay, 6 m wide internally, at ground floor level, and 2 No. visitor parking spaces would be provided. I consider the extent of parking that would be provided and the way this would be laid out would adequately serve the new development.
 17. If local refuse vehicles would not enter the site for collection of refuse/recycling, then just as with other properties around the area, bins would be brought to the front of the site for collection on specified days. Additionally, if a fire appliance is not able to enter the site and/or get within a distance of the proposed dwellings that may be required by other legislation, then this may result in other suitable fire safety arrangements being required/put in place (the appellant has proposed a dry riser), or the development unable to proceed for legislative reasons other than planning. Taking all the highway matters into account, although there would be an intensification of use of the access, there is no substantive evidence to suggest that the proposal would either have an unacceptable impact on highway safety or that it would have a severe impact on the surrounding highway network. I also note that no objections have been received from the Local Highway Authority.
 18. The submitted Phase I Habitat & Protective Species Survey concludes that the trees, garage, and greenhouse on site do not have any potential for roosting bats; and that the main loss would be the potential loss of habitat for nesting birds. Although it is noted that badgers are present within the wider area, no evidence of their presence on site was found. I am therefore satisfied that the proposal would not pose a threat to protected species and that with suitable conditions the future well-being of birds and other species can be protected.
 19. In respect of rainwater run-off and the risk of flooding, I have not been provided with any evidence of localised flooding. I accept that the development is likely to result in an increase in rainwater run-off. However, the proposal includes providing channel drains along the access driveway to prevent excess water run-off onto Tetney Road. Additionally, details of surface water drainage can be secured by condition.
 20. Regarding the proposal setting a precedent for other similar developments, I note that each proposal must be assessed on its own merits. Should any applications be submitted to the Council in the future, they would need to be assessed within the context of the site-specific circumstances against the policies relevant at the time.
 21. Protecting the living conditions of existing occupiers and managing the flow of traffic on the surrounding highway network during the construction phase are matters that can be controlled via a suitable condition.

Conditions

22. The conditions suggested by the Council have been considered taking account of advice contained in the Planning Practice Guidance and the tests within the Framework. Some have been amended or amalgamated for clarity, precision or to avoid duplication and some have been eliminated, taking account of policy

and guidance. The appellant has raised no objection to the suggested pre-commencement conditions.

23. As plans have been amended during the processing of the application and additional plans submitted with the appeal, I have attached a condition specifying the plans, to identify the development approved.
24. A condition requiring a construction method statement has been attached to ensure the surrounding highway network is not significantly hindered during the development phase and to protect the living conditions of occupiers of existing neighbouring properties during this period.
25. Conditions relating to all hard and soft landscaping, boundary treatments and their maintenance - throughout the life of the development - have been added to protect the character and appearance of the area, the living conditions of occupiers of existing properties and minimise surface water run-off.
26. A condition relating to ground and floor levels has been attached to protect the character and appearance of the area and the living conditions of occupiers of existing properties.
27. Conditions related to drainage systems have been attached in the interest of public health and to manage the risk of flooding.
28. Conditions related to vehicle and pedestrian layout, surfacing, marking of parking areas and retention of open parking bays and refuse storage areas have been attached in the interest of highway safety.
29. Conditions related to protecting and enhancing protected species and birds have been attached to ensure any protected species and birds are protected.
30. A condition requiring approval of external materials is attached to protect the character and appearance of the area.
31. Two conditions preventing the exercise of certain permitted development rights are attached in the interest of highway safety, public health, to protect the living conditions of occupiers of existing neighbouring properties and to protect the character and appearance of the area.

Conclusion

32. For the reasons outlined above, I conclude that the appeal is allowed.

J Williamson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 134-01-C, 134-02-B and 134-03-A.
- 3) Prior to commencement of development, including any works of demolition or site clearance, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding, if appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - delivery, demolition, and construction working hours.

The approved CMS shall be adhered to throughout the demolition, site clearance and construction periods of the development.

4) No development shall commence until a detailed hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. The local planning authority shall be notified in writing when the protection measures are in place and the protection shall not be removed until completion of the development. The scheme shall include details of the boundary treatments along all site boundaries and the individual boundaries of each proposed plot. The hard surfaced areas of the site shall be constructed of permeable or porous materials. The approved boundary treatments and hard landscape works shall be fully implemented prior to the approved dwellings being brought into use. The approved boundary treatments and permeable/porous surfacing shall be retained for the lifetime of the development.

5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The local planning authority shall be notified in writing when the landscape works have been completed.

6) Prior to commencement of development, a Management Plan (MP) detailing responsibility for the management and maintenance of all boundary treatments, for the lifetime of the development, shall have been submitted to and approved in writing by the Local Planning Authority. The approved MP shall come into effect immediately on completion of the development and shall be adhered to throughout the lifetime of the development.

7) No development shall take place until full details of existing and finished ground and floor levels, above ordnance datum, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

8) Development shall not commence until details of drainage systems for the site (with surface water and foul drainage draining to separate systems), including details of managing surface water run-off from the drive onto Tetney Road, have been submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the dwellings hereby approved being occupied; thereafter they shall be retained and maintained, without impediment to their designated uses, throughout the lifetime of the development.

9) Before any above ground works commence, details of the proposed vehicle and pedestrian layout, surfacing and the marking out of the car parking areas and access driveway shall have been submitted to and approved in writing by the Local Planning Authority. This shall include details of any proposed lighting. The dwellings hereby permitted shall not be occupied until the approved details have been fully implemented; and the areas shall be retained as approved for the lifetime of the development.

10) No demolition, site clearance or development shall be carried out on site until the site has been checked by a suitably qualified ecologist for the presence of any protected species. Should any evidence of protected species be found then details of proposed protection measures shall be submitted to and approved in writing by the local planning authority prior to any demolition, site clearance or development beginning.

11) No demolition, site clearance or development shall be carried out on site between the 1st March to 31st September in any year unless a Statement, produced by a suitably qualified ecologist confirming either that no nesting birds will be affected, or outlining suitable measures of protection, has first been submitted to and approved in writing by the local planning authority. All demolition, clearance and/or development works shall be carried out in complete accordance with the Statement for the duration of the development.

12) Prior to the approved dwellings being occupied, details of bat and bird boxes to be erected within the site shall have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to the dwellings being occupied, and they shall be maintained thereafter.

13) Prior to any development above slab level occurring, details of all proposed external materials and finishes, including samples if required, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

14) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), or any Order revoking or re-enacting that Order, no enlargement, improvement or other alteration which would otherwise be permitted by Class A, Part 1 of Schedule 2 of the GPDO shall be carried out on the southern facing elevations of any of the properties, or the western and eastern facing elevations of the two properties at the ends of the terrace. Additionally, no development which would otherwise be permitted by Classes B, C, D and G shall be carried out.

15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, (or any order revoking or re-enacting that order), the open parking areas provided within the properties at ground floor level shall not be enclosed at any time and shall be retained throughout the lifetime of the development without impediment to their designated use.

16) The refuse storage areas shown on the approved plans located at the rear of the parking areas shall be retained for their designated purpose throughout the lifetime of the development.

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