



Appeal Decision

Site Visit made on 1 June 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2021

Appeal Ref: APP/J4423/W/21/3268334

Land Between 53 Bighton Road and 35A Greengate Road, Woodhouse, Sheffield S13 7PN

- 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 Jeremy Nuttall (Tribeka Developments Woodhouse Ltd) against the decision of Sheffield City Council.
 - The application Ref 20/01455/FUL, dated 28 May 2020, was refused by notice dated 2 November 2020.
 - The development proposed is described as "proposal to develop 2 No. new dwellinghouses in the same location and same form as previously approved at outline 16/01583/OUT."
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Decision

1. The appeal is allowed and planning permission is granted for erection of 2 dwellinghouses at Land Between 53 Bighton Road and 35A Greengate Road, Woodhouse, Sheffield S13 7PN in accordance with the terms of the application Ref 20/01455/FUL, dated 28 May 2020, subject to the conditions set out in the schedule to this Decision.

Applications for costs

2. An application for costs was made by Tribeka Developments Woodhouse Ltd against Sheffield City Council. This application is the subject of a separate Decision.

Procedural Matters

3. The description of development in the banner heading above has been taken from the planning application form. However, in my formal Decision I have used the description given on the Council's decision notice and the appeal form, which adequately and concisely describes the development proposed.
4. A discrepancy between the floor plans and elevations for plot 8 was corrected during the appeal through submission of a revised plan¹. The discrepancy was in relation to a side-facing kitchen window, which was shown on the floor plan but not on the corresponding side elevation. I have considered this plan as part of the appeal as I consider that this change would not materially alter the nature of the application and would not prejudice the interests of interested parties. The Council have had the opportunity to comment on the revised plan as part of the appeal.
5. During the appeal I also sought clarification over a raised terrace at plot 8 and I have taken the comments into account.

¹ Dwg No: 018023-AAD-01-ZZ-DR-A-011-P01

Main Issue

6. The main issue is the effect of the development upon the living conditions of the occupiers of neighbouring properties, with particular regard to outlook, privacy and light.

Reasons

7. Outline planning permission was granted in 2016 for eight dwellings including scale, layout, and access. However, plots 1-6 are in the process of being developed under their own full planning permissions. I am not aware of any reserved matters having been submitted pursuant to the outline permission, leaving the appeal site (plots 7 and 8) as the only two of the eight plots originally granted for which there is no implemented or extant permission for residential development.
8. Policy H14 of the Sheffield Unitary Development Plan (1998) requires, among other things, that new development is well laid out, would not be over-developed, or deprive residents of light or privacy. My attention has also been drawn to the Council's Designing House Extensions Supplementary Planning Guidance (1996) (SPD), which supports Policy H14. Although the SPD is clearly aimed at house extensions, I see no reason why its design and neighbour protection guidelines, particularly in relation to separation distances, would not similarly be applicable to new buildings. Despite their age, both Policy H14 and the SPD remain consistent with paragraph 127 of the National Planning Policy Framework (the Framework), such that they can be given significant weight.
9. SPD Guideline 5 advises that in order to avoid unreasonable overshadowing and over dominance, a two storey extension should not be placed nearer than 12 metres (m) in front of ground floor main windows of a neighbour, although level differences may change the requirements. Privacy is covered by Guideline 6, which advises that new extensions and two storey dwellings should keep a minimum distance of 21m between facing main windows, albeit this can be reduced where windows are not directly facing each other. Precisely how much these separation distances can be adjusted to account for site specific circumstances is not defined in the SPD, so is ultimately a matter of planning judgement on a case by case basis.
10. The two-storey dwelling on plot 7 would be closer to 1 and 3 Greengate Close than was previously approved under the outline permission. These adjoining two-storey, semi-detached properties have small rear gardens and rear windows overlooking the appeal site. According to the appellant's uncontested figures, the closest distance to 1 and 3 Greengate Close would be around 15m and 14m respectively, thereby exceeding the SPD requirements. It is also significant that the rear elevations would be offset from each other. As such, whilst the outlook from 1 and 3 Greengate Close would undoubtedly be changed, I am satisfied that the size and position of the dwelling on this plot would not be unacceptably dominant or overbearing.
11. The distance between the rear upper floor windows of the dwelling on plot 7 to those of 1 and 3 Greengate Close would be around 16.9m and 14.9m respectively, but any mutual views between the windows would be limited due to the acute angle of view. Overlooking of gardens would not be materially worse than from the upper floor windows of neighbouring plots. At ground floor

- level, views would be obstructed by the new boundary fencing. I find that these factors are sufficient to ensure that the privacy of neighbouring residents and the occupiers of the dwelling on plot 7 would be adequately safeguarded.
12. The two-storey dwelling on Plot 8 would be positioned close to the northern boundary of the site and at a higher level than the neighbouring two-storey properties on Greengate Lane. These properties have rear windows looking over the appeal site, but their short rear gardens do not extend all the way to the boundary with the appeal site.
 13. There is no dispute that the siting of the dwelling on plot 8 is consistent with the siting that was accepted under the outline permission. I note the Council's comments in relation to its expectations for the height of the northern gable and rear projection, but according to the appellant's uncontested figures, the distance from the closest corner points to 44, 46 and 48 Greengate Lane would be between 14.9m and 13.6m, thereby exceeding the requirements of the SPD at all points. Moreover, as the dwelling would not run parallel to the boundary, and the rear projection would be stepped in, the main bulk of the dwelling presenting itself to these neighbours would be even further away, ranging somewhere between 16.3m and 17.4m. Therefore, even accounting for the difference in site levels and its orientation to the south of the properties on Greengate Lane, I am satisfied that the size and position of the dwelling on this plot would not be overtly dominant, overbearing, or cause unreasonable overshadowing to nearby residents.
 14. The Council's delegated report did not raise any concerns that the rear windows and side-facing dressing room window of the dwelling on plot 8 would lead to a loss of privacy to properties on Greengate Lane. Given the acute angle of view and separation distances involved, I have no reason to disagree. In addition, as the side-facing kitchen window would be a secondary ground floor opening with an oblique view, I am satisfied that it would not cause an unacceptable loss of privacy to neighbours.
 15. However, neighbours have raised concerns over a raised terrace that is indicated on some of the plans for plot 8. The details of this terrace are limited and also inconsistent. In some cases it is shown wrapping around the dwelling and up to the side boundary. Due to the difference in ground levels, it is unlikely that boundary fencing would be sufficient to prevent views towards the gardens and rear windows of properties on Greengate Lane from this raised platform. I acknowledge the appellant's desire to retain the terrace to provide access from the kitchen area to the garden, but this does not justify the extent of the terrace shown on the plans. I have considered whether the details of the terrace could be controlled by a condition. However, there is too much uncertainty at this stage, and I am particularly conscious that this approach could be prejudicial to the interests of neighbouring occupiers who would wish to be consulted. It would however be possible for me to omit the terrace via the approved plans condition. It would then be open for the developer to make a planning application for it, which would be subject to normal publicity and consultation with neighbours.
 16. Overall, and subject to removal of the terrace on plot 8, it is my judgement that the size and position of the proposed dwellings would not be unacceptably dominant, overbearing, or cause significant loss of privacy and overshadowing to neighbouring residents in both Greengate Close and Greengate Lane.

17. I therefore conclude that the living conditions of neighbouring occupiers would not be unacceptably harmed, with particular regard to outlook, privacy and light. As such, the proposal complies with UDP Policy H14 and the SPD. It also complies with paragraph 127 of the Framework in this regard.

Other Matters

18. I am informed that 53 Beighton Road, along with its boundary wall and gateposts are Grade II listed. I have a statutory duty to consider the effect of the proposal on the designated heritage assets and I am mindful of the content of the Framework in relation to heritage assets. However, I have no reason to find that the setting of the listed buildings and their significance would be adversely affected, and I note that the Council did not identify any harm in this respect.

Conditions

19. I have considered the conditions suggested by the Council in light of the Framework and the Planning Practice Guidance. In particular, I have had regard to the Government's intention that planning conditions should be kept to a minimum. Where necessary, I have amended the wording of conditions to ensure precision, and I have imposed only those conditions which meet the relevant tests.
20. A condition defining the approved plans is necessary to provide certainty. However, for the reasons given above, it is necessary to omit the terrace from plot 8 to protect the privacy of neighbouring occupiers. Conditions concerning external materials, and hard and soft landscaping are necessary to ensure a satisfactory appearance of the development.
21. I have not imposed the suggested condition requiring a Validation Report in relation to a contaminated land remediation strategy as no such strategy was submitted with the application. Also, the delegated report states that matters relating to contaminated land have been dealt with previously.
22. A number of conditions were suggested in relation to obscure glazing of various windows, and requiring further details of the glazed barrier to the first floor rear doors. However, in light of my main issue findings, and given the second floor side-facing window at plot 7 would serve a stairwell, I do not consider such requirements to be necessary to safeguard the privacy of neighbours, so the conditions are not imposed.
23. A condition requiring the car parking within each plot to be for the sole use of the occupiers of the approved dwellings is patently unnecessary, so is not imposed.
24. The internal access road was subject to a separate planning permission and is not part of the approved plans, so a condition requiring its provision would not be reasonable or necessary and is not imposed.
25. Given the stage of development on the wider site and small scale of the appeal scheme, a condition requiring wheel washing facilities would not be reasonable or necessary, so it is not imposed.

Conclusion

26. Notwithstanding some dispute over whether the Council has a 5 year supply of housing land, I have found no conflict with the relevant development plan policies and thus there is no conflict with the development plan as a whole. Therefore, for the reasons given, I conclude that the appeal should be allowed.

A Caines

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 018023-AAD-01-ZZ-DR-A-010-P02; 018023-AAD-01-ZZ-DR-A-011-P01; 018023-AAD-01-ZZ-DR-A-012-P01; 018023-AAD-01-ZZ-DR-A-013-P01; 018023-AAD-01-ZZ-DR-A-014-P02; except in respect of the raised external terrace on plot 8 as shown on plans 018023-AAD-01-ZZ-DR-A-010-P02 & 013-P01, which shall not be constructed.
- 3) No above ground construction works shall take place until a schedule of all the materials of external construction of the dwellings has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No above ground construction works shall take place until details of hard and soft landscape works have been submitted to and approved in writing by the local planning authority. Details shall include hard surfacing materials, means of enclosure, and planting species, sizes, layout, and numbers. The development shall be carried out in accordance with the approved details.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the occupation of the dwelling to which they relate. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

End of schedule