



Appeal Decision

Site visit made on 14 February 2023

by A Caines BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2023

Appeal Ref: APP/N4720/W/22/3311805

369 Shadwell Lane, Leeds LS17 8AH

- 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 Benjamin Jacobs against the decision of Leeds City Council.
 - The application Ref 22/03693/FU, dated 20 May 2022, was refused by notice dated 3 October 2022.
 - The development proposed is 3 bedroom dwelling with associated landscaping works.
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Decision

1. The appeal is allowed and planning permission is granted for 3 bedroom dwelling with associated landscaping works at 369 Shadwell Lane, Leeds LS17 8AH in accordance with the terms of the application, Ref 22/03693/FU, dated 20 May 2022, subject to the conditions listed in the schedule at the end of this Decision.

Procedural Matters

2. The appeal was accompanied by amended plans which make provision for the retention of a public post box within the roadside boundary wall. No other aspect of the scheme has been altered. The amendments are thus of a very minor nature, and the Council and interested parties had the opportunity to comment on the amendments during the appeal process. Having regard to the Wheatcroft principles, I consider it is reasonable to take the amended plans into account in reaching my Decision.

Main Issue

3. The main issue is the effect of the development on the character and appearance of the area, including the effect on non-designated heritage assets at the site.

Reasons

4. The appeal relates to an enclosed area of land on the north side of Shadwell Lane. The surroundings are residential in character containing dwellings of varying ages, styles, forms, and materials. These are generally set back from the road behind front gardens or other strips/buffers of 'green land' that run parallel with Shadwell Lane.
5. I am advised that the site is former garden land of 369 Shadwell Lane, which lies to the east and is part of a small group of stone built properties served by a private access road off Shadwell Lane. The site is enclosed to the north by a line of trees which are protected by a Tree Preservation Order. The southern roadside boundary is formed by a low stone wall, which runs for some distance

in both directions along Shadwell Lane, but at varying heights. The Council highlights what it considers to be a Victorian post box which is built into this wall, and has identified these features as having sufficient historic value to be regarded as non-designated heritage assets. This has not been contested by the appellant.

6. I accept that the introduction of built development within the site would inevitably diminish its undeveloped nature and spatial characteristics to some degree. Nonetheless, the modest size dwelling has been designed to sit comfortably within the site and would be set back from the highway by a similar amount to other dwellings on Shadwell Lane. A good sized garden area would be provided in the western part of the site, such that the majority of the site would remain undeveloped. This would be supplemented by additional tree planting that, over time, would filter views of the development from Shadwell Lane and add positively to the street scene in its own right. Vehicular access would be taken from the existing private access road, avoiding the need to create a new opening in the front boundary wall, and sufficient space would be provided at the front of the dwelling for the parking and manoeuvring of two vehicles in line with the Council's standards. The dwelling would also be a sufficient distance from neighbouring properties. Accordingly, the development would not have a cramped or overdeveloped appearance within the plot.
7. Moreover, there is no dispute that the dwelling's scale, massing, design, and materials would respect and complement its context and allow it to integrate into the built form of the surrounding area. Crucially, the proposal now also retains the Victorian post box. In addition, the Council accepts that, subject to appropriate planning conditions, the development would not adversely affect the protected trees at the rear of the site. On the evidence before me, I have no reason to take a different view.
8. Consequently, whilst the proposal would make more intensive use of this greenfield site and result in a change to its appearance, it would do so in a manner that relates appropriately to the surrounding form and spatial character of development within Shadwell Lane, and without harm to the significance of the identified non-designated heritage assets.
9. Therefore, the proposal complies with Policies H2, P10 and P12 of the Leeds City Council Core Strategy (as amended 2019) (CS) which, amongst other things, state that greenfield land should not be developed if it makes a valuable contribution to the visual, historic and/or spatial character of an area; and requires new development to provide good design that is appropriate to its location, scale and function, and protects historic assets. It would also comply with Saved Policies BD5, N25 and GP5 of the Leeds City Council Unitary Development Plan (Review 2006) insofar as they state that proposals, including site boundaries, should be designed with consideration given to their surroundings; and that development proposals should resolve detailed design considerations. There is also compliance with the design and historic environment protection aims of the National Planning Policy Framework.

Other Matters

10. There is no dispute that the Council can demonstrate a five year housing land supply. However, Policy H2 of the CS supports new housing development on non-allocated sites subject to certain criteria which, for the reasons given above, I consider that the proposal complies with.

11. I have had regard to the further matters raised by interested parties, including concerns over highway safety, wildlife, drainage, and the amount of garden space that has been left for 369 Shadwell Lane. These matters were before the Council when it determined the planning application and did not feature in the reasons for refusal. Nor were there any objections raised from consultees on these matters. Based on the evidence before me, and from my own observations, I have no reason to disagree with the Council's assessment of these matters. Consequently, the other matters raised do not lead me to a different conclusion.
12. In terms of any disturbance and inconvenience during construction works, such effects would be temporary and could be managed by the provision of a Construction Management Plan. Other concerns over the use of the access and any provision of gates appears to be a civil matter between the parties involved, so has limited bearing on my consideration of the appeal.

Conditions

13. 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. Some have been amended and shortened in the interests of clarity and precision taking into account the guidance, and I have imposed only those conditions which meet the relevant tests. All pre-commencement conditions have the written agreement of the appellant.
14. The standard commencement and approved plans conditions are imposed for certainty. A condition requiring further investigation of land contamination prior to ground work commencing is necessary in the interests of public health and safety. Further pre-commencement conditions in relation to tree protection measures and a Construction Management Plan are necessary to protect existing trees during construction works; and to manage the effects of construction on neighbouring residents.
15. Conditions concerning materials, and hard and soft landscaping works, are necessary to ensure a satisfactory appearance of the development. Conditions to secure the implementation of the access and parking areas are necessary to ensure appropriate off-street parking provision, whilst the provision of cycle storage facilities would be necessary in the interests of sustainable transport.
16. However, the provision of electric vehicle charging points is mandatory under the Building Regulations. It is not necessary to duplicate the function of other regulatory bodies in these regards, so the suggested condition is not imposed.

Conclusion

17. The proposal complies with the relevant policies of the development plan, and therefore with the development plan as a whole. Accordingly, and 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 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002/02(02)001; 002/02(02)003 C; 002/02(02)004; 002/02(02)005 A.
- 3) The submitted Phase I Desk Study report indicates that a Phase II Site Investigation is necessary. Therefore, no development shall take place until a Phase II Site Investigation Report has been submitted to and approved in writing by the local planning authority.

Where remediation measures are shown to be necessary in the Phase II Report and/or where soil or soil forming material is being imported to site, development shall not commence until a Remediation Statement demonstrating how the site will be made suitable for the intended use has been submitted to and approved in writing by the local planning authority. The Remediation Statement shall include a programme for all works and for the provision of Verification Reports. Remediation works shall be carried out in accordance with the approved Remediation Strategy. On completion of those works, the Verification Report(s) shall be submitted to the local planning authority in accordance with the approved programme; and the site shall not be brought into use until such time as all verification information has been approved in writing by the local planning authority.

- 4) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide details of arrangements for:
 - i) the parking of vehicles of site operatives;
 - ii) loading, unloading and storage of plant and materials;
 - iii) measures to prevent mud, grit and dirt being carried onto the public highway; and
 - iv) how the statement of construction practice will be made publicly available by the developer.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) Notwithstanding any information submitted with the application, no preparatory work, or development works shall take place until a scheme for the protection of nearby trees (the Tree Protection Plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) have been submitted to and approved in writing by the local planning authority. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter adhered to throughout the construction period. The area within any fenced/protected area shall not be used for storage or the parking of machinery or vehicles and ground levels shall not be altered.

- 6) No development shall take place until a scheme of supervision for the arboricultural protection measures required by condition 5 has been submitted to and approved in writing by the local planning authority. This scheme shall be administered by a qualified arboriculturist instructed by the applicant and shall include details of:
- i) identification of individuals and their responsibilities;
 - ii) timing and methods of site visiting and record keeping, including updates; and
 - iii) procedures for dealing with variations and incidents;
- The scheme of supervision shall be implemented as approved.
- 7) No above ground construction works shall take place until samples of all external walling and roofing materials have been approved in writing by the local planning authority. The samples shall first be made available on site for inspection by the Local Planning Authority which shall be notified in writing of their availability. The development shall thereafter be constructed in accordance with the approved details.
- 8) Notwithstanding the details shown on the approved plans, no above ground construction works shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) earthworks showing proposed finished levels or contours;
 - ii) means of enclosure and retaining structures;
 - iii) hard surfacing materials;
 - iv) planting species, sizes, layout, and numbers; and
 - v) a programme for implementation.
- The landscaping works shall be carried out in accordance with the approved details and with the programme for implementation.
- 9) If, within a period of 5 years from the date of planting pursuant to Condition 8, any trees or plants die, are removed or become seriously damaged or defective, they 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.
- 10) The dwelling hereby permitted shall not be occupied until the areas shown on the approved plans for access, parking and manoeuvring of vehicles have been constructed and laid out in accordance with the approved plans and, thereafter, such areas shall be kept free of obstruction and available at all times for those purposes.
- 11) The dwelling hereby permitted shall not be occupied until facilities for bicycle and motorcycle storage/parking have been provided at the site in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. The approved facilities shall be retained for the lifetime of the development.

****End of conditions****