



Appeal Decision

Site visit made on 3 May 2023

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2023

Appeal Ref: APP/J4423/W/22/3312257 45A Brooklands Avenue, Sheffield S10 4GB

- 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 UK Homes Ltd against the decision of Sheffield City Council.
 - The application Ref 22/01539/FUL, dated 14 April 2022, was refused by notice dated 21 September 2022.
 - The development proposed is demolition of existing dwelling and the erection of five detached dwellings with associated landscaping; and improvements to the access.
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Decision

1. The appeal is dismissed.

Applications for costs

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

Preliminary Matters

3. Additional plans and documents have been submitted alongside documentation when the appeal was lodged which did not form part of the original planning application. These do not alter the nature of the proposal, and the Council has had the opportunity to comment on them, therefore I am satisfied that the Council will not be prejudiced by my taking them into account.
4. A completed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 was submitted with the appeal, the Council has had the opportunity to comment on this, therefore I am satisfied that the Council will not be prejudiced by my taking it into account.

Main Issues

5. The main issues in the appeal are the effect of the proposed development on:
 - The character and appearance of the area.
 - The living conditions of occupiers of the proposed development and neighbouring occupiers with particular regard to living space, noise and disturbance, outlook and privacy.
 - Biodiversity.

Reasons

Character and appearance

6. The site comprises a single storey dwelling and grounds located behind Brooklands Road, with an access drive off Brooklands Road. The site has a large number of mature trees along its boundaries particularly on the eastern side. Private gardens of dwellings from Brooklands Road, School Green Lane and Whitfield Road back onto the site. The site slopes down towards the east which reflects the topography of the surrounding area. The area is spacious and suburban in character, with a mixture of mainly two-storey detached and semi-detached dwellings of varying designs and materials set in reasonably sized plots.
7. The proposal would introduce five three storey, six bedroom dwellings on a reasonably sized plot of land. However, due to the site constraints with large numbers of protected trees and site level changes, the dwellings would have very small gaps between them and would appear cramped, particularly from the approach to the site along the access road. The size of the proposed dwellings would add to the appearance of being cramped by being of substantial height and would appear imposing and incongruous in their setting. The proposed three storey gable features with vertical emphasis exaggerate the dominance of the dwellings. Due to the size, design and space surrounding each dwelling, the proposal would have an unacceptably detrimental impact on the character and appearance of the area, which has the appearance of a lower density with lower height house types. Further, the expanse of hardstanding for car parking to the front of the site would detract from the design of the scheme and would harm the character and appearance of the area.
8. The proposed materials would be the same for each dwelling which do appear as high quality materials, however, due to the small gaps between the dwellings, cramped appearance and height this would further emphasise the stark contrast with the surrounding development.
9. Examples have been provided by the appellant estimating height differences between existing properties in the surrounding area. The height differences cited are relatively modest and are evident due to the topography of the area and variation in house types. Therefore, these have not had the same detrimental effect on the character and appearance of the area as would the proposed development.
10. For these reasons, the development would result in unacceptable harm to the character and appearance of the area. It would therefore conflict with Policies BE5, H14 and H15 of the Sheffield Unitary Development Plan (1998) (UDP) and Policy CS74 of the Sheffield Development Framework Core Strategy (2009) (CS) which seek to ensure development has regard to local character and is of a high quality design.
11. Finally, it would also conflict with the National Planning Policy Framework (the Framework), which requires developments to add to the overall quality of the area and to be sympathetic to their surroundings.

Living Conditions

12. The report of the Council's officer refers to the amount of amenity space afforded each property, and separation distances between neighbouring properties. Particularly those to the rear of the proposed development. The Council state that there would be less than 10m from the rear elevation to the rear boundaries of plots 1, 2 and 4. Therefore, the proposal does not comply with the Designing House Extensions Supplementary Planning Guidance from the Unitary Development Plan (SPG) which requires at least 10m between the rear of the property and the rear boundary. This combined with height differences and the expanse of glazing on the rear elevations means that overlooking could occur, particularly to No. 14 School Green Lane.
13. Whilst the SPG can be applied flexibly especially in an urban environment, the guidance does state that where a dwelling is higher than surrounding properties this distance may need to be greater. In this case due to the site specific circumstances and the design of the proposed development, the shortfall in separation distances which is modest and notwithstanding the presence of some landscaping, would cause overlooking and would have an unacceptable overbearing impact on neighbours to the rear, which would detract from the enjoyment of their private gardens.
14. The Council in their officer's report have stated that the proposed garden areas for the dwellings are not suitable for the size of dwelling. However, the SPG requires 50sq.m for a two or more bedroomed dwelling. The proposed dwellings would have garden areas well in excess of this, so the living conditions of future occupiers of the proposed development would not be harmed by the size of the garden area.
15. Due to the relatively short separation distances, noise and disturbance of neighbouring occupiers by residents of the proposed dwellings using their outdoor spaces is a concern. However, within a residential area there is an expectation for some noise to occur from having neighbours, and in this case noise from the occupiers of the proposed dwellings is unlikely to cause an unacceptable level of harm.
16. Having regard to the properties on Brooklands Avenue, adequate separation distances are shown well in excess of the minimum standards set out in the SPG. Due to the generous separation distances, the increased height of the dwellings and amount of glazing may cause some overlooking into private gardens, however this would not be significantly detrimental to the neighbouring occupiers of these properties.
17. The proposed access to the site which utilises the existing access, would intensify its use with the curtilage of two properties along Brooklands Avenue immediately either side of the access. Due to the size of the proposed properties which would have six bedrooms, together with the amount of dwellings, the access would see greater level of activity than at present. Each dwelling could have several vehicles and vehicle movements could be numerous each day. Due to its narrow width, two vehicles may not always be able to pass comfortably, therefore could result in potential conflict with vehicles waiting to pass. Having regard to the proposed acoustic fence, I have no evidence to suggest that this would mitigate noise appropriately, and therefore the proposal is likely to create a level of noise and disturbance along

the access which would cause unacceptable harm to the occupiers of those dwellings immediately affected.

18. The report of the Council officer has stated that there would likely be overlooking from pedestrians using the access to the properties either side of the access. However, based on the current and proposed height of the boundary treatments and the fact that the dwellings have side elevations facing onto the access, it is unlikely that direct or prolonged overlooking would occur in excess of what would occur being in a residential environment such as this, that would have a detrimental impact on the occupiers of those properties.
19. Lighting would likely be required along the access drive that could be intrusive. However, appropriate low level lighting could be installed which would not have a detrimental impact on the occupiers of those properties immediately affected by the access, due to existing and proposed boundary treatments. In addition, concerns have been raised regarding light spill from the development as a whole. The proposed dwellings would have significant amounts of glazing and some lighting would be required, along with the presence of vehicle headlights intermittently. However, based on the information provided, the site circumstances and separation distances, including intervening vegetation and boundary treatments it is not evident that the amount of light that would emanate from the proposed development would have an unacceptably harmful impact on the living conditions of neighbouring occupiers.
20. I therefore conclude that the proposed development would have a detrimental effect on the living conditions of neighbouring occupiers by way of overlooking, noise and disturbance. It would therefore fail to accord with Policies BE5, H14 and H15 of the UDP and CS74 of the CS which require developments to be well designed of high quality, would not lead to noise or other nuisance for people living nearby and ensure that basic standards of privacy and outlook are met for all residents.
21. The proposal would also not accord with paragraphs 130 (f) and 185 of the Framework which state that decisions should ensure that developments have a high standard of amenity for existing and future users, and that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on living conditions.

Biodiversity

22. A net loss in biodiversity would occur as a result of the proposed development. This is based on the Biodiversity Impact Assessment and would result in a loss of -23.05% of habitat units. However, the development would result in a gain of 29.79% of hedgerow units. Therefore, the Biodiversity Impact Assessment has stated that in order to achieve biodiversity net gain, offsite compensatory habitats would be required.
23. Due to the amount of habitat units lost across the site which cannot be mitigated against on site based on the proposal, off-site compensation has been suggested by the appellant in order to provide a 1% biodiversity net gain.
24. I have been provided with a planning obligation in the form of a Unilateral Undertaking (UU). The UU proposes a financial contribution to offset the loss of 0.49 biodiversity units. Which at a cost of £25000 per biodiversity unit would result in a payment of £12,372.50 to the Council. This figure according to the

appellant's evidence is based on the Doncaster Metropolitan Borough Council Biodiversity Net Gain SPG and not any document or evidence provided by the Council.

25. While there is little evidence to justify such a contribution, if I were to accept that it would provide adequate net gain, there is no indication of how it would be spent by the Council, and accordingly I have no indication that this would achieve the proposed net gain in reality. Therefore, I can only give the proposed planning obligation limited weight.
26. Due to the loss of biodiversity shown and the absence of a guaranteed method to secure a contribution to offset the harm to biodiversity as a result of the development, with the absence of substantive evidence to the contrary I must conclude that the proposal would have an unacceptable impact on biodiversity. As I am dismissing the appeal for other reasons I have not felt it necessary to seek further information on this matter.
27. Therefore, for the reasons mentioned the proposal would not accord with Policy GE11 of the UDP which states that the natural environment will be protected and enhanced and should promote nature conservation. It is acknowledged that the policy is silent with regard to biodiversity net gain.
28. Whilst I note that there is no development plan policy that requires a biodiversity net gain, the Framework is clear at paragraph 174 that planning decisions should contribute to and enhance the natural and local environment by providing net gains for biodiversity, therefore for the reasons mentioned the proposal does not accord with the Framework in this regard.

Other Matters

29. I have been provided with details of two schemes within close proximity to the appeal site, a new dwelling ¹ and of a conversion of existing buildings to provide three dwellings ². Based on the information before me, these examples would not have the same detrimental effect on the character and appearance of the area, nor the living conditions of neighbouring occupiers as would the proposed development before me. Accordingly, this matter does not weigh in favour of the development.
30. My attention has also been drawn to several decisions taken by the Council where the Council has concluded that the schemes would be sympathetic to the surroundings and built environment and without resulting in harm to the living conditions of neighbouring occupiers. The appellant submits that these schemes are comparable to the appeal proposal. Although I do not dispute that these sites have some similarities to the appeal scheme, the respective sites are nevertheless located a reasonable distance from the appeal site and therefore, they do not form part of the immediate context which is an important consideration here. These other decisions do not lead me to a different conclusion on the main issues in this appeal.
31. The Council has raised concerns regarding the proximity of the development to protected trees and concerns regarding root protection areas. I am satisfied that the appellant has provided adequate evidence in the landscape plan that properties will be outside of the root protection areas, save for one garage.

¹ planning application number 20/03904/FUL

² planning application number 20/04509/FUL

There is sufficient evidence that replacement and some additional tree planting would take place, and whilst this is a benefit of the scheme it carries neutral weight in the overall planning balance.

32. The appellant's evidence concludes that the proposal would not expose future occupiers to any risk of contamination or risk increasing flooding elsewhere in the locality. Based on the evidence provided by the Council I have no reason to disagree with this, this matter carries neutral weight in the overall planning balance.
33. The appellant states that the proposal will not have a detrimental impact on the local highway network. Based on the information provided the Council conclude that it would meet the tests in the Framework regarding impact on the highway network. Accordingly, this is afforded neutral weight in the overall planning balance.
34. The proposed financial benefits of the development have been put forward by the appellant. Which includes the spend within the construction industry, spend of construction staff and the employment of contracted and sub-contracted staff throughout the construction period. These benefits whilst involving significant spend during the construction process are temporary in nature so attract limited weight in the overall planning balance. The contribution to the New Homes Bonus for the Council and increases in Council Tax have also been raised and are all beneficial, however due to the scale of the development would not be significant, therefore this carries limited weight in the overall planning balance.
35. Third parties have raised that the proposed development would remove an area of derelict land, would have a positive effect upon property prices and would free up existing housing stock, due to the scale of the scheme this would only attract limited weight in the overall planning balance. In addition that the proposal for five, six-bedroom dwellings does provide for larger homes which adds to the housing mix in the general vicinity, that may not otherwise be readily available. This matter carries moderate weight in the overall planning balance.
36. The Council cannot demonstrate a five year supply of deliverable housing sites. Consequently, because of the provisions of footnote 7, paragraph 11 d) ii. of the National Planning Policy Framework should be applied.
37. The Development Plan policies used in this appeal are from two main documents, the UPD from 1998 and CS from 2009. However, the weight to be attached does not hinge on their age. Rather paragraph 213 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework requires developments to add to the overall quality of an area and to be sympathetic to its surroundings, that decisions should ensure that developments have a high standard of amenity for existing and future residents and that new development is appropriate for its location taking into account the likely effects of pollution on living conditions. The Framework also expects developments to provide net gains for biodiversity.
38. The Framework indicates that great weight should be given to the benefits of using suitable sites within settlements for homes and therefore supports the general thrust of the CS in terms of the location of housing, which although is a

greenfield site, due to its location is suitable and has good access to services and facilities.

39. Even taking account of the objective of boosting significantly the supply of housing and the Council's housing land supply position, the conflict between the proposal and Policies BE5, H14, H15 and GE11 of the UDP and CS74 of the CS should therefore be given significant weight in this appeal.
40. Set against the harm identified there would be social and economic benefits associated with the proposal. An additional 4 units taking into account the existing unit on the site, would make a very modest difference to the overall supply of housing. The support four extra households would provide to the local economy through the use of services and facilities including schools would also be less than significant. Consequently, the harm arising from the impact on the character and appearance of the area, living conditions of neighbouring occupiers and impact on biodiversity which would not be adequately offset, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result the presumption in favour of sustainable development does not apply.

Conclusion

41. 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, for the reasons given, the appeal should not succeed.

N Duff

INSPECTOR