



Appeal Decision

Site visit made on 3 April 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/F4410/W/22/3312619

23 Hazel Grove, Conisbrough, Doncaster DN12 2JD

- 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 Antony Reynolds against the decision of Doncaster Metropolitan Borough Council.
- The application Ref 22/00572/FUL, dated 4 March 2022, was refused by notice dated 17 June 2022.
- The development proposed is the erection of a 2-bedroom bungalow in the rear garden.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant indicated on Part E of the appeal form that the description of the development had been changed from that stated on the planning application form. While the change was not a major one, I have used the amended description in the banner heading above as it reflects the proposal as it was considered by the Council. I have however omitted the repeated site address and the reference to it being a resubmission of an earlier refused planning application¹, as these elements are not descriptive of development.
3. The Government published a revised National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the version published in July 2021. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the September 2023 version.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the development would provide acceptable living conditions for occupiers of the existing dwelling and the proposed bungalow, with particular regard to outlook, privacy and overlooking, and overshadowing; and
 - The effect of the proposed development on highway safety.

¹ LPA Ref: 21/02799/FUL

Reasons

Character and appearance

5. The appeal property is a two-storey house, the end property in a short terrace of four dwellings at the head of Hazel Grove, a short cul-de-sac. The rear gardens of the appeal property and its terrace back on to Sheffield Road, the main road into Conisbrough from the west, from which they are separated by a concrete post and concrete or timber panel fence. The surrounding area is predominantly residential; Hazel Grove forms part of an estate development of similar houses to the appeal property, arranged either in semi-detached pairs or groups of four.
6. The appeal property, as a consequence of being both an end-terrace house and at the edge of the development, has a larger side and rear garden than typical for the estate. The proposed development is the subdivision of the rear garden, and the erection of a two-bedroom bungalow towards the rear of the site; this would be accessed by a new driveway from Sheffield Road. The plan form of the bungalow would perhaps best be described as being a truncated right-angled triangle, with its angled side facing towards the rear of the existing dwelling. The bungalow would be faced in red brickwork with panels of white render, and would have grey concrete roof tiles.
7. The housing to the east of the appeal site, including its neighbours No 77A Sheffield Road and Rock Villa, as well as other properties on Sheffield Road and Ellershaw Road, displays a greater degree of variety in design, scale and materials than is found on Hazel Grove and the other streets north and west of the appeal site. However, the location and siting of the proposed bungalow would make it visually and spatially part of the same estate as the appeal property, and its layout and form would be at odds with the much more regular form of the housing blocks within that development. While the proposed materials would reflect some of those found in the wider area, the bungalow's unusual plan form (and the consequent relatively complex array of angled walls, gables and roof pitches) would give it a discordant and intrusive appearance.
8. The proposed form and siting of the bungalow would also give it the appearance of having been squeezed onto an awkward (in terms of both its shape and orientation) site. Furthermore, the subdivision of the appeal site, and the infilling of part of the rear garden with a small dwelling, would disrupt the sense of spaciousness and separation between the housing and the busy Sheffield Road which the garden provides in its existing form and which, while modest in scale, makes a positive contribution to the area.
9. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the area. It would therefore conflict with Policies 41 and 42 of the 2021 Doncaster Local Plan ("the DLP"); together, and among other things, these policies seek to ensure that new development recognises and reinforces local character, and responds positively to its context and setting, including in layout, form and appearance.

Living conditions

10. The development would see the appeal site divided into two broadly similarly sized parts; the rear gardens of the host property and the proposed bungalow

would sit side-by-side, divided by a boundary fence. The proposed layout would result in there being little separation between the two dwellings, and several first-floor windows on the existing dwelling would be very close to the proposed bungalow and its garden. In particular, I saw on my site visit that a rear bedroom would allow views of the bungalow's main living room and garden and, while those views would be oblique rather than perpendicular, they would still allow for considerable overlooking from a short distance.

11. In respect of actual separation distances, the appellant referred to advice in both the Residential Backland and Infill Development Supplementary Planning Document ("the SPD") and the South Yorkshire Residential Design Guide ("the SYRDG"). The Council explained that the SPD had been revoked on the adoption of the DLP in 2021, while neither the SYRDG or its Transitional Developer Guidance ("TDG") to which it also referred had been formally adopted as supplementary planning documents. The revoked SPD is no longer a relevant material consideration, while their informal status means that I give both the SYRDG and the TDG very limited weight in reaching my decision.
12. Nevertheless, the TDG states that the distance between habitable room windows should be at least 21m apart to prevent harmful overlooking being introduced, and that habitable room windows that overlook neighbouring garden space should be at least 10m from the boundary. The bedroom window at the rear of No 23 would only be around 11m from the angled rear elevation of the proposed bungalow (by the Council's measurement, though this has not been disputed by the appellant). Regardless of the informal status of the Council's guidance at present, the proposed separation distance would be very short by any standard, and would be likely to lead to a significant lack of privacy. In this context, the appellant's point that the rear bedroom window would be 12.6m or so from the proposed bungalow's boundary *measured perpendicularly* (and so would comply with the guidance) is not an argument which carries significant weight in the scheme's favour.
13. There are three further windows on the first floor of the existing dwelling which face the site of the proposed bungalow; two serve a bathroom (and would be even closer to the bungalow than the bedroom window), and the third serves the landing. None has obscure glazing at present, although the appellant indicates that this would be fitted as part of the appeal scheme. Nevertheless, the four windows in total would cumulatively be a dominating and overbearing presence when seen at close range either from within the bungalow or from its rear garden; even the use of obscure glazing for three of the windows would therefore be unlikely to adequately mitigate either the loss of privacy or the perceived loss of privacy which would result.
14. The bi-fold doors on the rear of the proposed bungalow would be the principal window serving the main living space (although there would be another window in the kitchen area). The doors would be only 4m or so from the boundary fence; this would be likely to lead to there being a limited and oppressive outlook from the main living room, as well as potentially overshadowing (and a consequent lack of daylight) from the proposed 2.1m high boundary fence. The same fence would be around 6.6m from the main living room of the existing host dwelling; while this would not be as oppressive as for occupiers of the bungalow, it would again be likely to lead to the occupiers of the house having a limited outlook.

15. In my view this combination of poor outlook, overshadowing, and a loss of (or lack of) privacy would be likely to prevent future occupiers of the bungalow from enjoying their home and garden as they might reasonably expect to do. The limited outlook from the main rear living room of the host dwelling would also be detrimental to the quality of life for the occupiers of that property. The Council considered that the amount of garden space which would be retained for the host property and provided for the proposed bungalow would be acceptable. In terms of the size of the gardens, I see no reason to disagree. However, this is not a consideration which would mitigate the other harm I have found.
16. I conclude that, for the reasons set out above and summarised in the preceding paragraph, the proposed development would not provide acceptable living conditions for occupiers of the existing dwelling and the proposed bungalow, with particular regard to outlook, privacy and overlooking, and overshadowing. It would therefore conflict with Policy 10 of the DLP which, among other things, seeks to ensure that new residential development provides an acceptable level of residential amenity for both new and existing residents.

Highway Safety

17. Sheffield Road to the south of the appeal site, from which the new vehicular access serving the proposed bungalow would be created, has a 40mph speed limit. The appellant submitted drawings indicating that two car parking spaces would be provided on the site, and that it would be possible for either independently to enter and leave the site in a forward gear. At present, however, visibility along Sheffield Road in both directions would be constrained by boundary walls and fences either side of the appeal site; these are the 2m high fences to the gardens of houses on Hazel Grove west of the site (including the immediate neighbour at No 25), and the boundary wall adjoining the shared access way to Rock Villa and No 77A Sheffield Road to the east. Because of this, the required 120m x 2.4m visibility splays could not be provided as things stand, and so safe access and egress would not be possible.
18. The evidence put before me suggests that the appellant has negotiated the future purchase of a narrow triangle of land at the rear of No 25 Hazel Grove; it is asserted that this would allow the fence line to be moved back to allow the 120m visibility splay to be created to the west. The appellant also submitted (though it was not accepted by the Council at the time the planning application was being determined) a revised plan showing this area included within the "red line boundary". However, that land is not within the appellant's ownership or control and, while I note his suggestion that a condition could be imposed to "require the visibility splay land to be transferred to the proposed bungalow plot to ensure the splay is retained for the lifetime of the development", having regard to the tests set out in Paragraph 55 of the Framework, and the advice in the Planning Practice Guidance, I am not satisfied that such a condition would be enforceable, precise or reasonable in all other respects.
19. The appellant described the Rock Villa/No 77A Sheffield Road boundary wall to the east as a "dwarf wall", though I note the Council's concern that the actual height of the wall has not been provided, and agree based on what I saw on site that drivers of lower vehicles (such as sports cars) would be unlikely to be able to see over the wall. However, even if I were to otherwise accept the appellant's argument that the height of the neighbouring walls means that they

“do not affect visibility significantly”, I also saw on site that they are topped with planted vegetation, and that retaining adequate visibility would be dependent on keeping this trimmed back. Again, this is outside the appellant’s control, and it is not a matter which could reasonably be addressed by a condition. The appellant also alluded to “the future possibility of conjoining the accesses to further improve highway safety for all three plots”, but while this might be a way in which the matter could be better addressed, at present it is merely a vague prospect which does not weigh significantly in my decision.

20. I therefore conclude that, because of poor sightlines from the proposed driveway, the development would have an adverse effect on highway safety. The proposal therefore conflicts with Policy 13 of the DLP which seeks to promote sustainable transport in new development and which, among other things, seeks to ensure that development does not have an unacceptable impact on highway safety. For the same reasons, the proposal would conflict in this respect with the provisions of paragraph 111 of the Framework.

Other Matters

21. The appellant has made various amendments and alterations to the proposal during the application process in an attempt to come up with a workable scheme. This is commendable but, while I note that the Council had no *in principle* objections to the scheme (and nothing which has been put before me leads me to a different view on that point), I have nevertheless found significant harm as I have described above.
22. The appellant lives in the existing dwelling on the appeal site, No 23 Hazel Grove, but has stated that he has health problems which make accessing the facilities in the upstairs rooms difficult; the proposed bungalow is therefore intended to provide a dwelling more suited to his long-term needs. While I am sympathetic on this point, no further evidence has been offered to support it. It can therefore only carry limited weight in my assessment, as personal circumstances rarely outweigh planning concerns. I am also mindful that it is likely the proposed development, and its associated impacts, would remain in place long after these current personal circumstances cease to be relevant.

Conclusion

23. I have found that the proposed development would be harmful to the character and appearance of the area, would not provide acceptable living conditions for future occupiers, and would be harmful to highway safety. These are matters which carry considerable weight, and outweigh the benefits associated with the proposal. The scheme would conflict with the development plan taken as a whole, and there are no other considerations, including the provisions of the Framework, that outweigh this conflict.
24. For the reasons set out above, I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector