



Appeal Decision

Site visit made on 12 September 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 9 October 2023

Appeal Ref: APP/P4415/W/23/3319222

Ashleigh, Quarry Lane, North Anston, Rotherham S25 4DB

- 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 Adrian Hawkins against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2021/2034, dated 20 October 2021, was refused by notice dated 28 September 2022.
 - The development proposed is the demolition of an existing 3 bedroom dwelling Charnwood, and erection of 3no dwellings and a detached garage at Ashleigh, Quarry Lane, North Anston. Along with the removal of a number of existing trees.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following initial feedback from the Council, amendments were made to the application, including alterations to the proposed layout. The Council determined the application on the basis of these amended drawings, and accordingly I will also have regard to them in determining this appeal.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area with particular regard to trees; and
 - whether the proposal would provide acceptable living conditions for future occupiers with specific regard to the provision of outdoor amenity space.

Reasons

Character and Appearance

4. The appeal site is formed of a substantial domestic garden area serving the property known as Ashleigh along with the adjacent plot where the property Charnwood is currently sited. It is bound on three sides by existing residential development and by Quarry Lane along the south-western boundary. A low wall with hedgerow above runs along the boundary with Quarry Lane. The land rises into the site from Quarry Lane with both Ashleigh and Charnwood sitting higher than the road level.
5. To the north and east are existing dwellings that front onto Limekilns that sits lower than the appeal site. A number of trees are located within and adjacent

to the appeal site, a number of which along the northern and eastern boundaries are protected by Tree Preservation Orders No.8 1989 and No. 1 1988 (TPO). Given the difference in ground levels, the trees are clearly visible above the front boundary treatment and from Limekilns to the north and east providing a significant vegetative backdrop to the built form in the area. The existing trees provide a verdant character that contributes positively to the character and appearance of the area.

6. The proposed siting of the rear elevation of the projecting wing on plot 1 would be in very close proximity to the crown of the protected sycamore tree (T50) located on the eastern boundary. T50 is categorised as having low value in the appellant's Tree Survey. However, it is described as being of adequate condition requiring minimal surgery and it appeared during my site visit to make a positive contribution visually. The removal of the concrete base identified as a betterment does not appear to be within the root protection area for T50 as identified on the Tree Survey and therefore would not be beneficial to its health.
7. The rear elevation of the proposed dwelling on plot 2 would be located a limited distance from two protected poplar trees, T45 and more so G46. Both are identified in the appellant's tree survey as being of low value, although they are both identified as having a life expectancy of 20-40 years. Whilst the crowns would not overhang the rear elevation at the outset, given the potential for further growth of these trees, it is likely that if allowed to grow naturally without intervention they would in the future have a much closer relationship with the built form.
8. The proposed siting of the dwelling on plot 3 to the north of the appeal site would be in close proximity to a number of protected sycamore trees (T23, T26, T27, T28, T36, T40 and T41). All but two of these trees are identified as being of moderate value where retention is desirable. The other two (T28 and T36) are categorised as low value. As a group these trees do provide a significant verdant feature for both the appeal site and the wider area.
9. The appellant asserts that the proposal would provide an opportunity to secure the long term management of the existing tree stock on the appeal site. However, I have no substantiated evidence before me to demonstrate that any of the trees identified above would be unlikely to survive for many years. Even if I were to agree that protective fencing put in place during the construction phase would mean that the trees can be maintained during the development works, I consider that the proposed siting of the dwellings would create pressure to prune and/or fell the protected trees in the future, to their detriment. This is particularly the case given that the trees are yet to reach their full height and crown spread. Although the Council would retain formal control over any such request for tree works, in practice I consider that it is likely to be difficult to resist such pressure in the long term.
10. The proposal also includes the removal of 13 trees in the southern and central area of the appeal site, none of which are subject to a TPO. The appellant states that all of the trees that would be removed are of low quality or are unsuitable for retention. Replacement planting of 10 trees is proposed to mitigate for the loss of the existing trees and the appellant asserts that this could be secured by condition. However, given the amount of built form and the layout proposed, it is not clear where 10 additional trees would be planted

that would provide sufficient and meaningful mitigation whilst not compromising the living conditions of future occupiers. Without further information in this regard, I do not consider that a condition would be reasonable in resolving or mitigating this matter satisfactorily in this instance.

11. The evidence before me indicates that undertaking the proposed development would be likely to risk the long term health of protected trees. The proposal would undermine the positive contribution that the trees make and would therefore be harmful to the character and appearance of the area. The proposal would conflict with Policies CS19 and CS20 of the Rotherham Local Plan Core Strategy 2013-2028 (Adopted September 2014) which seek, amongst other things, to ensure the integration of new development into the natural environment whilst conserving and enhancing it and avoiding damage or loss of green infrastructure assets. The proposal would also conflict with Policy SP12 of Rotherham Local Plan Sites and Policies (Adopted June 2018). This policy seeks, amongst other things, to avoid harm to the character of the area.

Living conditions

12. All three of the proposed dwellings would have rear garden spaces located in close proximity to the trees located along the northern and eastern boundaries of the appeal site. The size of the garden areas may be acceptable but the presence of the trees would have an impact on the usability of these outside spaces for future occupants. With regard to the proposed dwellings on plots 1 and 2, the trees would appear as dominant features within the garden spaces particularly given the more limited depths between the built form and eastern boundary. This dominance would alter and increase as the trees mature.
13. Whilst I recognise that photographs have been provided by the appellant showing the level of light reaching the spaces during mid-morning on a clear day in January, this does not account for the presence of the proposed dwellings nor when the trees are in full leaf and how this would affect light reaching the space, particularly with regard to plot 3.
14. Whilst a sunlight and daylight assessment has not been submitted, principal tree shadows have been provided in the appellant's Arboricultural Appeal Statement in relation to plot 3. There is some dispute between the parties as to the accuracy of these based on the tree heights identified. However, it does identify that there is a significant proportion of the garden area associated with plot 3 either within the identified areas of shadow or under the canopies of trees, particularly protected trees T40 and T41. This arrangement would limit the use of the space, with a significant amount of it being either overshadowed or beneath tree canopies making the private garden space relatively gloomy for a significant part of the day, particularly when the trees are in full foliage.
15. The proximity of trees to all three of the rear garden spaces would also be likely to raise issues of falling debris and branches at certain times of the year which could be hazardous and/or a nuisance to future occupants.
16. I accept that prospective purchasers may be aware of the trees and that some may seek a more mature garden environment that the trees would provide. I also understand that the presence of trees can provide shade on hot days. Nevertheless, a high standard of amenity is necessary for future occupiers, irrespective of who owns the property.

17. I find that the proposal would not provide satisfactory living conditions for future occupiers with regards to outdoor amenity space. In this respect the proposal would conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which seeks, amongst other things, to ensure that developments have a high standard of amenity for existing and future users. Without further information to the contrary, it would also conflict with the South Yorkshire Residential Design Guide 2011 which states that private outdoor amenity spaces must endeavour to have sufficient sunlight.

Other Matters

18. I note the intention for the appellant and his family members to reside in the proposed dwellings. However, such personal circumstances seldom outweigh general planning matters.

Conclusion

19. For the above reasons, having had regard to the development plan as a whole, along with all other material considerations, including the provisions of the Framework, I conclude that the appeal should be dismissed.

G Dring

INSPECTOR