



Appeal Decision

Site visit made on 15 August 2023

by J D Clark BA (Hons) DpTRP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 October 2023

Appeal Ref: APP/J4423/W/23/3317725

Land to the rear of 70 Church Street, Oughtibridge, Sheffield, South Yorkshire S35 0FW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Brett Berresford against the decision of Sheffield City Council.
 - The application Ref 21/04348/FUL, dated 1 October 2021, was approved on 25 November 2022 and planning permission was granted subject to conditions.
 - The development permitted is: *Erection of detached split level dwellinghouse (amended plans and redline).*
 - The condition in dispute is No 4 which states that: *Prior to above ground works commencing on the development site, the existing garage associated with No. 70 located immediately to the rear, in the area outlined in red on the approved plans, shall be removed and this said area laid out as garden to be maintained and retained in association with No. 70 Church Street.*
 - The reason given for the condition is: *In the interests of residential amenity.*
-

Decision

1. The appeal is allowed and the planning permission Ref 21/04348/FUL for the erection of detached split level dwellinghouse on land to the rear of 70 Church Street, Oughtibridge, Sheffield, South Yorkshire S35 0FW, granted on 25 November 2022 by Sheffield City Council, is varied by deleting condition 4 and substituting it with the following condition:-
 - Prior to above ground works commencing on the development site, the existing garage associated with No 70 located immediately to the rear, in the area outlined in blue on the approved plans, shall be removed and this said area shall be laid out as garden to be maintained and retained in association with No 70 Church Street.

Preliminary Matters

2. The description of development in the above heading is taken from the decision notice. However, I have amended it for the purpose of the formal decision in paragraph 1 of this letter by removing the unnecessary reference to amended plans. I have taken the appellant's name from the application form although I note that it is spelled differently on some of the appeal documents.
3. No 70 Church Street is a detached property on the corner of a private access which serves a number of properties on Church Street and includes several areas of private amenity land. Planning permission was granted under application 21/04348/FUL for a detached dwelling on a substantial parcel of the amenity land that is accessed from the private access. At the time of my site visit work had commenced on site.

4. Condition 4 specifically relates to an area of land that includes a garage located to the rear of the house at No 70. The condition requires that this land is laid out as garden in association with No 70. The condition refers to the land being located in "the area outlined in red" on the approved plans. The Council has clarified that this is an error and the condition should refer to the "area outlined in blue" instead. However, this error does not affect my assessment of this appeal as the area of land to which the condition relates is sufficiently clear. The appellant wishes to remove the condition and retain the garage.

Main Issue

5. The main issue is whether the condition is necessary having regard to the living conditions of the occupiers of 70 Church Street by reason of private amenity space.

Reasons

6. The existing house at No 70 has an area of land to the front which is used for parking. A small area of space is provided to the rear of No 70 which is also used for parking. Additionally, there are small areas of land to the side of the house. Other than these areas, and the land occupied by the garage, the only other amenity space for the occupiers of No 70 would be the substantial parcel of land where the proposed house is planned to be located. By implementing the planning permission, that parcel of land would no longer be available to the occupiers of No 70. In order to offset this, condition 4 requires the removal of the existing garage and the creation of a small area of amenity space for use in association with No 70 instead.
7. The area of amenity space that would be provided in the approved scheme together with the space secured by condition 4 represents a very small proportion of the amenity space that would remain available to the occupiers of No 70 if the new dwelling was not to come forward. I consider that the existing retained amenity space, together with that secured by condition 4, is the absolute minimum amount of amenity space that should be provided for the occupiers of No 70 given the size of the existing house.
8. The appellant states that the amount of amenity space remaining to No 70 would exceed the Council's minimum standard of 50m². The Council's SPD¹ makes reference to retaining garden space in relation to house extensions, and although not strictly relevant, the minimum provision of 50m² to be retained for dwellings with two or more bedrooms is a useful guide. However, the appellants calculations include the small areas to the front, side and rear of the house. In my view, these small areas do not provide practical outdoor amenity space. Most of the front garden and part of the land to the rear was used for parking at the time of my visit and the remaining land to the side, front and rear is small and immediately adjacent to the shared private access.
9. The appellant states that the loss of the garage would leave the occupiers of No 70 with no garage for the secure storage of vehicles, gardening equipment, children's bicycles, garden furniture etc. However, I have found that subject to condition 4, satisfactory private amenity space would be provided relative to the size and number of bedrooms at No 70. If additional storage space is considered to be necessary by the occupier(s), a scheme to create more

¹ Sheffield City Council – Designing House Extensions – Supplementary Planning Guidance from the Unitary Development Plan.

storage space, or to reapportion the existing land between No 70 and the new dwelling could be submitted as part of a fresh application. Whilst the appellant has expressed concerns about the potential for vehicle crime and burglary there is no compelling evidence that there are significant issues with crime in the area, or that substantial risks in respect to those matters would arise from this proposal.

10. The appellant states that he would relocate from No 70 into the new dwelling, which would be retained for family members including elderly parents who are increasingly in need of personal care. However, there is no mechanism for linking the new property to the existing one, or which would formally enable the occupiers of No 70 to use the amenity space around the new dwelling. Moreover, No 70 would still require an area of private amenity space given its size.
11. I consider that the removal of the condition would result in an inadequate amount of private amenity space and thus unsatisfactory living conditions for the occupiers of No 70. Moreover, doing so would conflict with UDP² Policy H14 which, amongst other things, seeks to ensure that development would not cause serious loss of existing garden space which would harm the character of the neighbourhood. It would also conflict with the National Planning Policy Framework, which aims to achieve a high standard of amenity. The condition is therefore necessary. However, whilst the intentions behind the condition are clear, for accuracy it is necessary to correctly refer to the area to be additional garden as outlined on the approved plans in blue for accuracy.

Other Matters

12. Any resulting impact on property values due to No 70 not having a garage is not a planning matter and so is not something I have taken into consideration. I also note that the appellant states that future occupiers of No 70 may apply for planning permission to build a garage on the area of amenity space, However, that would be subject to a separate permission and assessment. This matter does not therefore affect my decision.

Conclusion

13. I conclude that condition 4 is necessary having regard to the living conditions of the occupiers of 70 Church Street by reason of private amenity space but the appeal is allowed for the purpose of correcting the red/blue line error.

J D Clark

INSPECTOR

² Sheffield City Council – Sheffield Unitary Development Plan, Adopted March 1998.