
Appeal Decision

Site visit made on 4 September 2023

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2023

Appeal Ref: APP/J4423/W/22/3313141

Kenwood Hall Hotel, Kenwood Road, Sheffield S7 1NQ

- 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 Conroy Brook Dev. Ltd., Messrs G Davies, G Dyke & A Rouse & Vine Hotels against the decision of Sheffield City Council.
 - The application Ref 20/03276/FUL (Formerly PP-09081153), dated 18 September 2020, was refused by notice dated 16 June 2022.
 - The development proposed is Demolition of outbuildings, and erection of 4 houses with associated parking, accessway and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The first main issue is the effect of the proposal on the character and appearance of the Nether Edge Conservation Area (the Conservation Area). The second main issue is the effect of the proposal on the Kenwood Hall Historic Garden. The third is the effect of the proposal on biodiversity with particular regard to tree removal.

Reasons

Conservation Area

3. This part of the Conservation Area is verdant in nature. The dominance of trees within it often takes the form of mature planting and is a defining feature of its character and appearance.
4. The established tree belts within the grounds of Kenwood Hall Hotel make a significant positive contribution to this established character, and a notable section of planting would have to be removed to the south of the driveway through the site to facilitate the development. Whilst it is clear the management of the tree belts could be improved, there is nothing to indicate that the majority of trees proposed for removal do not have a reasonable remaining lifespan.
5. Whilst the introduction of the dwellings themselves would not be harmful given the varying types and designs of detached dwellings within the area, it is the removal of a substantial section of the established tree belt within the site that would cause harm.

6. Given the use of the site as a hotel and the other uses that it also incorporates it is likely that the site would be reasonably visible were users to pass this part of the site. The harm would, therefore, be likely to be visible to many people.
7. When considering threats to the area, the Conservation Area Appraisal¹ advises that the main threat to the established landscape of the area comes from the potential decline and loss of trees, the majority of which have reached maturity. Tree replacement within the scheme would take some time to mature and in any event the evidence indicates limited space for tree planting.
8. The proposal would subsequently detract from the heritage significance of the Conservation Area which lies in part with its mature tree planting. The harm to the significance of the Conservation Area would be less than substantial. Paragraph 196 of the Framework² requires such harm to be weighed against any public benefits of the proposal.
9. The proposal would fail to accord with Policy CS74 of the Sheffield Core Strategy (CS) (2009). Amongst other things this seeks development which would respect and enhance the distinctive features of the city including its landscape character. I have not found conflict with Policy GE15 which relates to trees and Woodland given that consideration has been afforded to a detailed landscaping/re-planting scheme.
10. The proposal would also fail to accord with policies BE16 and BE17 of the Sheffield Unitary Development Plan (1998) (UDP) which amongst other things require proposals which preserve or enhance the character and appearance of Conservation Areas and those which adopt a sensitive and flexible approach to layout.

Historic Garden

11. The site falls within the Kenwood Hall Historic Garden which is identified within the evidence as a non-designated heritage asset. I am informed that George Wolstenholme commissioned Robert Marnock to design the parkland surrounding his residence, Kenwood Hall.
12. It is stated within the evidence that Marnock was a well-known exponent of the gardenesque movement which was popular at the time and had also laid out the nearby Sheffield Botanical Gardens. One of the main characteristics of Marnock's design is stated to be its organic free flowing juxtaposition of structural planting defining and enclosing open space or lawn areas.
13. The evidence indicates that the structural planting to the south of the western driveway has formed a broadly robust and consistent feature throughout the history of the garden, up to the present time. The removal of a significant section of this structure planting would therefore detract from the significance of the historic garden through eroding and reducing its legibility as a Marnock designed parkland. Given the importance of the structural planting, the harm to the significance of the garden would be substantial.
14. In line with the requirements of the Framework, I am required to take into account the effect of an application on the significance of a non-designated heritage asset.

¹ Nether Edge Conservation Area Appraisal – Development Services – Sheffield City Council.

² National Planning Policy Framework 2023.

15. The proposal would fail to accord with Policy BE21 of the SUDP, which requires that amongst other things, the character and appearance of Historic Parks and Gardens will be protected.

Biodiversity

16. The application is accompanied by an Ecological Appraisal³. The appraisal indicates that the site was considered to have a low ecological value overall.
17. With specific regard to trees, some were identified as providing a suitable bird nesting habitat, however ecology related harm could be avoided in the event of the removal of such trees by appropriately checking prior to works or timing works to avoid the bird nesting season.
18. Trees on the site within the appraisal were recorded to be in good health and assessed to have negligible/no potential to support roosting bats. Lost habitat could partially be replaced with the provision of ten bird boxes on site and some new tree and shrub planting of the type which would bear nectar, berries, fruits or nuts. Such matters could be conditioned were I minded to allow the appeal.
19. There would therefore be no significant adverse impact on biodiversity at the site as a result of the tree removal proposed. There would therefore be no conflict with Policy GE11 of the UDP which amongst other things requires that the natural environment will be protected and enhanced.

Other Matters

20. There would be public benefits associated with the scheme. These would include reinstating the historical planting concept through the proposed landscaping scheme and the removal of the nodal junction as well as the improved management of the existing tree stock. I afford these matters moderate weight given that they would offer some improvement to the principles of the garden and appearance of the site. I afford the new hedge line limited weight as this would not be a sufficient replacement for the structural planting that would be lost.
21. The proposal would sit within a sustainable location with nearby available transport links within Sheffield. It would utilise what would appear to be a part of the site with limited use which incorporates apparently disused buildings. There would be social and economic benefits including the potential for local employment and construction spend.
22. The proposal would contribute family houses to the housing supply, which are stated to be in demand. It is suggested that this is due to a predominance of supply of apartments and purpose built student accommodation.
23. However, the contribution would be small given the limited scale of the scheme and even were I to accept the deficit in supply identified by the appellant, I afford these benefits limited weight. The appeal details submitted related to family housing are limited and it is difficult to draw direct comparisons not being aware of the specifics and contexts of those schemes. I afford those limited weight.

³ FPCR Ecological Appraisal REV A – Vine Hotels – Kenwood Hall Sheffield – August 2020.

24. The Framework places significant emphasis on achieving well designed places. At paragraph 130, amongst other things, it states that planning decisions should ensure that developments are sympathetic to local character and history including landscape setting. At paragraph 131 it is acknowledged that trees make an important contribution to the character and quality of urban environments and that existing trees are retained wherever possible. Protection is offered to heritage assets within Part 16.
25. Therefore, the conflict between the proposal and Policy CS74 of the CS and policies BE16, BE17 and BE21 of the UDP should be given significant weight in this appeal. As the proposal would be contrary to these policies, there would be conflict with the development plan as a whole.
26. There is agreement that the Council cannot demonstrate a five-year housing land supply. In these circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
27. I accept that there would be some economic, social and environmental benefits associated with the provision of the scheme and acknowledge the deficiency in supply of deliverable housing sites. However, the contribution would be limited in relation to a scheme which would only provide a small number of units and I have identified adverse impacts associated with the proposal. When considered together, I afford these adverse impacts significant weight.
28. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits of the proposal 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.
29. Even if that were not the case, given the harm that would be caused to the character and appearance of the Conservation Area, the application of Framework policies relating to designated heritage assets provide clear reasons for refusing the development proposed. Therefore, in this respect paragraph 11 (d) of the Framework is not engaged in terms of supporting the proposal.

Planning Balance and Conclusion

30. There would be conflict with the Framework given the less than substantial harm that would arise to the significance of the Conservation Area which would not be outweighed by public benefits. The harm identified to Kenwood Hall Historic Garden, which would not be adequately mitigated through the proposal, weighs against the scheme.
31. To conclude, the proposal would conflict with the development plan and there are no material considerations which indicate a decision should be made otherwise than in accordance with it. The appeal is therefore dismissed.

T Burnham

INSPECTOR