



Appeal Decision

Site visit made on 12 March 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 04 June 2024

Appeal Ref: APP/J4423/W/23/3327675

Land to the rear of 51-55 Knowle Lane, Sheffield S11 9SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr J Priestley against the decision of Sheffield City Council.
 - The application Ref is 23/01201/FUL.
 - The development proposed is erection of three houses with associated works including access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three houses with associated works including access and landscaping at land to the rear of 51-55 Knowle Lane, Sheffield S11 9SL in accordance with the terms of the application, Ref 23/01201/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appellant has confirmed in writing that the name provided on the appeal form was incorrect and that they are the appellant and that they made the original planning application. I have therefore taken the appellant's name from the planning application form, rather than the appeal form.
3. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. Therefore, I am satisfied that there is no requirement to seek further submissions on the revised Framework and that no party's interests have been prejudiced by my taking this approach. I will refer to the revised paragraph numbers in my decision.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

5. The appeal site is located to the rear of frontage development along Knowle Lane, a road residential in character. Despite a variation in architectural design, properties along Knowle Lane are characterised by two-storey detached and semi-detached properties fronting the highway with verdant rear gardens. The rear boundary line of gardens serving properties along Knowle Lane adjacent to the appeal site has been altered previously with 51 and 55 Knowle Lane having much more limited rear garden depths in comparison to those around them.

6. The appeal site is situated to the rear of 53 Knowle Lane and also extends behind the rear gardens of 51 and 55 Knowle Lane. The appellant refers to the main part of the appeal site as being formerly used as garden land in association with No 53. During my site visit I noted that the appeal site still had the appearance of garden land, although I note the construction of a new boundary treatment had commenced.
7. To the northeast of the appeal site on the opposite side of Knowle Lane is Knowle Croft, a short cul-de-sac of dwellings that are situated to the rear of frontage development along Knowle Lane.
8. Located to the south of the appeal site are two blocks of apartments, known as Braemore, which sit in a tandem layout, accessed from Ecclesall Road South. Detached dwellings and a commercial building are also located along this section of Ecclesall Road South. Directly opposite the Braemore apartments is another development which is arranged in depth, identified as Blenheim Mews, where terraces of dwellings sit behind frontage development, with the rear most terraces set back, providing a visual end to the private drive.
9. Whilst I note the differences stated regarding the planning history, that the sites used for these other developments were larger and did not form the amalgamation of a number of garden areas and how these other sites within the vicinity of the appeal site came to be developed, they do contribute to the character and pattern of built form within the surrounding area.
10. The proposal would provide three detached three storey dwellings that would be accessed from Ecclesall Road South, from the existing private drive that serves the Braemore apartments. The significant majority of the private drive that would be used to access the site is existing.
11. The proposal would result in the loss of land that appears as open garden area. However, this loss would not be perceived in views from Knowle Lane due to the intervening built form, the differing site levels and the set back from the road. The position of the rear boundaries of No 51 and No 55 have already been altered which has amended the pattern of the space surrounding the appeal site. The more limited garden depths of No 51 and No 55 would remain as they are currently and the rear garden of No 53 would be reduced to be more in keeping with those dwellings either side.
12. The proposed dwellings would be visible from Ecclesall Road South, however, they would be set back from the road and given the proposed siting, would appear as a visual end point to the existing private drive. They would relate well visually to the rear block of the Braemore apartments. This type of arrangement, although a different type of development, would reflect to some degree the pattern of development directly opposite, on the other side of Ecclesall Road South.
13. The proposed dwellings would be visible from the surrounding garden areas and would introduce a new feature not currently present at the appeal site. However, the separation distance that would be provided between the rear elevations of adjacent properties and the proposed dwellings and the rear garden depths would be sufficient to ensure that the development would not be overbearing.

14. The proposed footprint, scale and design of the dwellings along with the amount of garden space provided for each plot would be in keeping with the varied character of the surrounding area. As a result, the proposal would not represent the overdevelopment of the site.
15. I acknowledge that the effect on the character and appearance of an area is not solely dependent on how visible a proposed development would be. Nonetheless, the presence of backland developments to the north and southeast in the surrounding area are clearly noticeable in both plan form and from public views and inform the character of the area. In addition, the majority of the access road is in place in association with the in depth development of the apartment buildings that the proposal would be seen alongside.
16. Consequently, the proposal would not result in unacceptable harm to the character and appearance of the area. As a result, it would comply with Policies CS31 and CS74 of the Sheffield Development Framework Core Strategy Adopted March 2009. These policies seek, amongst other things, that the character of housing in the south-west area is safeguarded and enhanced and that developments respect, take advantage of and enhance distinctive features of neighbourhoods.
17. The proposal would also comply with paragraphs 128 and 135 of the Framework which seek, amongst other things, that developments make efficient use of land whilst taking into account the desirability of maintaining an area's prevailing character and setting and that developments are sympathetic to local character.
18. I note that the Council referred to paragraph 72 (previously paragraph 71) in its reason for refusal. This refers to considering the case for setting out policies to resist inappropriate development of residential gardens in the plan making process. I have not been referred to any such policies. Nevertheless, I have found that the proposal would not result in unacceptable harm to the character and appearance of this rear garden area and therefore I do not consider that it would constitute inappropriate development in this regard.

Other Matters

19. I note that a significant number of representations were submitted to the Council during the planning application consultation and that also a number of interested parties have responded to the appeal, raising concerns.
20. The Council has not raised any objections based on the principle of development in terms of the area in which it is located, the accessibility of the appeal site, the density of the proposed development and the amount of development carried out on greenfield land across the Council area so far. There is no evidence before me to suggest I should take a different view in these respects.
21. Concerns have been raised by interested parties about the impact on car parking provision, accessibility for emergency services and other service vehicles, highway and pedestrian safety and surface water drainage.
22. The proposal would result in the loss of two parking spaces currently serving the Braemore development. The Council's Highways Development Control department were consulted and stated whilst not ideal, given the overall

- provision of parking provided for occupants of the apartments, the loss of 2 spaces would not be a robust reason to resist the proposed scheme. The parking spaces identified for the proposed dwellings are considered by the Council to be in accordance with its policy requirements. I have no evidence before me to suggest that parking is over-subscribed in relation to the Braemore apartments or that there are any significant issues in this regard.
23. The swept path analysis drawing provided by the appellant demonstrates that a refuse vehicle, fire appliance and cars would be able to access and turn along the driveway identified on the proposed site layout. I have no substantive evidence before me to the contrary.
24. There is a separate footpath alongside the existing private drive for the majority of its length which would be maintained as part of the proposed layout, this leads to separate pavements alongside Ecclesall Road South. Neither the Highways Development Control department, nor the Council raised objection on highway or pedestrian safety grounds or to the use of the existing vehicular access for three additional dwellings. I find that there is no compelling evidence to demonstrate that the development would result in unacceptable harm in these respects. Similarly, it is unlikely that the traffic movements associated with 3 units would result in a significant increase in air pollution levels or light pollution.
25. There is no evidence before me to suggest that there is a significant issue currently with regard to surface water flooding. Conditions can be imposed to ensure surface water is disposed of appropriately and that permeable/porous hardstanding is provided as part of the proposed scheme.
26. Concerns in relation to construction traffic, security and noise have also been raised. I have sympathy for existing occupiers as development of this nature would inevitably give rise to some disruption. However, the works would be time limited and it would not be reasonable to withhold consent on this basis alone. I understand there are concerns about security given a recent burglary at one of the apartments and that there would be more people accessing the existing gated community. However, there is no substantive evidence before me to suggest that the proposal would introduce or exacerbate any actual or perceived levels of crime and/or antisocial behaviour in the area.
27. On my site visit I accessed the appeal site from both Knowle Lane and from the existing private drive that serves the Braemore apartments, and I have given careful consideration to comments from neighbouring occupiers with regard to the effect of the proposal on their living conditions. This includes concerns about overshadowing, privacy, noise, outlook and the quality of life and health and wellbeing for older occupiers in the area. The Council has not included any of these considerations as part of its reason for refusal. Given the separation distances to existing properties and proposed landscaping and boundary treatments identified, no unacceptable harm in these regards would result.
28. I also note concerns about the relocation of the existing shed within the grounds of the apartments and the removal of a seating/BBQ area to facilitate the access into the appeal site. Nevertheless, it appears that there is sufficient space within the grounds of the apartments, for these facilities to be relocated.
29. It is asserted that the north facing gardens that would serve the proposed dwellings would provide a poor amenity space for future occupants. Whilst I

accept that the gardens would be north facing, they are of sufficient size and appropriate layout to provide meaningful garden space.

30. A Preliminary Ecological Appraisal (PEA) was submitted by the appellant which identifies that habitats on the appeal site offer relatively low ecological value. A soft landscaping scheme and a bat and bird box scheme could be required by condition, in accordance with the recommendations of the PEA.
31. Concerns are raised about the lack of affordable housing provision as part of the scheme. The Council has confirmed that the scheme does not reach the threshold which would require an affordable housing contribution. I acknowledge the concerns relating to the type of dwellings proposed, the query about whether they will be freehold or leasehold and the potential for this to impact on the housing market locally, in terms of the affordability of property. However, I have no evidence before me to suggest that the type of dwellings being proposed on the appeal site would have a significant material effect in this regard. I also note that it has been asserted by an interested party that the appeal site should be considered alongside the potential development of 266 Ecclesall Road South, which is also under the appellant's ownership. Nevertheless, I must deal with the scheme before me.
32. A concern raised about the potential loss of property value is not a planning matter for my consideration as planning is primarily concerned with the public interest. The contravention of a covenant attached to the Braemore apartments and concerns about the distribution of maintenance costs for the access drive are also private matters.
33. I acknowledge the interested party concerns that allowing this proposal could set a precedent for future developments. However, development proposals must be considered on their individual merits and I have found above that no unacceptable harm would result from the current proposal. Any future development proposals would need to be similarly considered on their merits against policies and circumstances pertaining at the time. However, current concerns about such proposals coming forward are not of sufficient weight to lead to a finding of harm in this case.
34. I note interested parties are frustrated by the lack of direct consultation by the developers prior to the scheme being submitted. Whilst this is unfortunate, it weighs neither for nor against the proposal.
35. I note that the Braemore development is identified as apartments where older people reside. In light of this, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Act sets out the relevant protected characteristics which include age. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act. In reaching my decision, I have kept these interests at the forefront of my mind. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
36. I recognise that the development would result in change to the day to day living of those existing occupiers living in the Braemore apartments, through

the resultant additional vehicular and pedestrian movements that would be related to the proposed dwellings, which would utilise the existing access road. However, given the limited number of dwellings proposed, the additional movements would not be so significant that they would have an unacceptable harmful impact. I recognise that the construction phase would be disruptive, but that this would only be temporary and therefore would be time limited. A condition to require a Construction Environmental and Highway Management Plan is suggested by the Council in order to limit these effects.

37. I have found that the separation distances between the proposal and the existing apartments mean that the proposal would not have an unacceptable harmful impact on the living conditions of those occupying the apartments, in terms of overshadowing, privacy, noise, outlooks, risk of crime or anti-social behaviour and the overall quality of life.
38. I am therefore not persuaded that there would be any particular discrimination for those who have a protected characteristic who occupy the adjacent Braemore apartments and it would be proportionate to allow the appeal.

Conditions

39. The Council has provided a list of suggested conditions, should the appeal be allowed. I have considered the suggested conditions and added to, amended, combined and reordered as necessary in the interests of precision and clarity, as well as to comply with the Framework and the advice set out in the Planning Practice Guidance (PPG).
40. I have added the standard condition that limits the commencement of the planning permission and a condition identifying the approved plans for clarity. Clarification has been provided by the Council that its decision notice should have referred to revision C of drawing number 27671 (02) 11 Plot 1 GA Plans, rather than revision B and revision A of YK6917-1PD-001 Swept Path Analysis.
41. The Council has suggested a condition requiring a biodiversity gain plan to be submitted and approved prior to commencement. However, the PPG¹ states that biodiversity net gain has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024 and that permissions granted for applications made before this date are not subject to biodiversity net gain. As the planning application was made prior to this date I have not imposed this condition.
42. A condition is necessary to secure proper surface water drainage and is required before the commencement of development to ensure a suitable scheme can be achieved. I have no evidence before me that suggests there are specific drainage issues at the site, I have therefore combined the Council's three suggested surface water drainage conditions into one, in the interests of precision.
43. A pre-commencement condition requiring an external lighting scheme is necessary to protect the living conditions of neighbouring occupiers and in order to limit the impact on wildlife. A pre-commencement condition requiring a Construction Environmental and Highway Management Plan is necessary in

¹ Paragraph: 003 Reference ID: 74-003-20240214

- order to protect the living conditions of neighbouring occupiers and to ensure highway safety during the construction phase.
44. Pre-commencement conditions requiring a scheme of intrusive investigations in relation to past coal mining activity and that any necessary remediation works, or mitigation measures are completed are necessary to ensure that the site is safe and stable for the approved development, prior to commencement.
 45. In the interests of protecting the character and appearance of the area, the living conditions of existing and future neighbouring occupiers and the need for effective surface water drainage, conditions are necessary with regard to external materials, details of windows, window reveals and doors, boundary treatments, hard and soft landscaping and obscure glazing. Given the residential nature of the development in a residential area, I have removed the requirement for acoustic fencing. I have included the need for a permeable/porous specification of hardstanding and landscape maintenance period under the hard and soft landscaping condition. There is no evidence before me as to why it is necessary for the appellant in this case to notify the Council of the completion of landscaping works, I have therefore not imposed this suggested condition.
 46. Whilst the provision of bat and bird boxes was referenced in the Council's Officer Report as a way to offset the loss of habitat, the Council did not suggest any conditions in this regard. Nevertheless, the appellant submitted a PEA which recommended that at least one bat box and one pair of swift boxes are incorporated into each new dwelling. I therefore find it reasonable to impose a condition requiring these details to be submitted and approved and provided prior to occupation and thereafter retained, in the interests of biodiversity.
 47. A condition requiring a hand dig method for excavations in the root protection zone of tree T1 is necessary to enable the retention of the neighbouring tree.
 48. With regard to ensuring the provision of appropriate car parking for the development, a condition is necessary to require that the proposed car parking areas are provided, prior to first occupation and retained thereafter.
 49. The Council suggested a condition which would restrict permitted development rights for future occupants. However, whilst the interests of the amenities of occupiers of adjoining properties are noted as resulting in the need for such a condition, there is no specific details of what the Council is seeking to protect. The PPG² states that the blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. Given the lack of precision in the reasoning behind the suggested condition I do not consider it is reasonable or necessary. I have therefore not imposed it.
 50. A number of informatives were suggested by the Council in relation to street naming and numbering guidelines, what is required if unexpected contamination is found, that utilities may be present on the site and what information is required to be provided as part of the CEaHMP. Informatives do not carry any legal weight and therefore I have not included them in the schedule of conditions. Nevertheless, I am satisfied, given that they were

² Paragraph: 017 Reference ID: 21a-017-20190723

provided at the end of the Council's list of suggested conditions, that the appellant has been referred to this additional information.

Conclusion

51. For the reasons given above I find that the proposal would comply with the development plan as a whole. I therefore conclude that the appeal is allowed subject to the conditions in the attached schedule.

G Dring

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 27671(00)00 Site Location Plan
 - 27671 (02) 10 Rev C Site Plan Proposed
 - 27671 (01) 03 Rev E Proposed Block Plan
 - 27671 (02) 11 Rev C Plot 1 GA Plans
 - 27671 (02) 12 Rev C Plot 2 GA Plans
 - 27671 (02) 14 Rev B Plot 3 GA Plans
 - 27671 (03) 01 Rev C Site Sections
 - 27671 (03) 02 Rev A Street Elevation
 - 27671 (04) 01 Rev B Plot 1 Elevations (front and side)
 - 27671 (04) 02 Rev B Plot 1 Elevations (side and rear)
 - 27671 (04) 03 Rev B Plot 2 Elevations (front and side)
 - 27671 (04) 04 Rev B Plot 2 Elevations (side and rear)
 - 27671 (04) 05 Rev B Plot 3 Elevations (front and side)
 - 27671 (04) 06 Rev B Plot 3 (side and rear)
 - YK6917-1PD-001 Rev A Swept Path Analysis
- 3) No development shall commence until a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. This shall include the arrangements and details for surface water infrastructure management for the lifetime of the development. The scheme should be achieved by sustainable drainage methods whereby the management of water quantity and quality are provided. Should the design not include sustainable methods evidence must be provided to show why these methods are not feasible for this site. The scheme shall demonstrate separate systems of drainage for foul and surface water on and off site. The surface water drainage scheme and its management shall be implemented in accordance with the approved scheme. No dwelling shall be occupied until the drainage works approved have been completed.
- 4) Prior to the commencement of development details of an external lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include a report giving details of the impact of lighting on adjacent dwellings. The report shall demonstrate that the lighting scheme is designed in accordance with The Institution of Lighting Professionals document GN01:2011 " Guidance Notes for the Reduction of Obtrusive Light". The development shall be carried out and thereafter

retained in accordance with the approved details.

- 5) Development shall not commence until a Construction Environmental and Highway Management Plan (CEaHMP) has been submitted to and approved by the Local Planning Authority. The CEaHMP shall assist in ensuring that all site activities are planned and managed so as to prevent nuisance and minimise disamenity at nearby dwellings, and will document controls and procedures designed to ensure compliance with relevant best practice and guidance in relation to noise, vibration, dust, air quality and pollution control measures. The CEaHMP shall also assist in ensuring highway safety during construction. In this respect the plan shall include details of the site accommodation including an area for delivery/service vehicles to load and unload, for the parking of associated site vehicles and for the storage of materials. The approved CEaHMP shall be adhered to throughout the construction period.
- 6) No development shall commence until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with the Abandoned Mine Workings Manual C-758-D' (Published by Ciria 2019) or any guidance that supersedes that document.
- 7) No development shall commence until a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made safe and stable for the approved development has been submitted to and approved by the Local Planning Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
- 8) Details of all proposed external materials and finishes, including samples when requested by the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority before that part of the development is commenced. The development shall be carried out in accordance with the approved details.
- 9) Large scale details, including materials and finishes, at a minimum of 1:20 of all windows, window reveals and doors shall be approved in writing by the Local Planning Authority before that part of the development commences. The works shall be carried out in accordance

with the approved details.

- 10) Details of a suitable means of site boundary treatment, including the specifications for the fencing incorporating wildlife routes, shall be submitted to and approved in writing by the Local Planning Authority before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority. No dwelling shall be occupied until the boundary treatments have been provided in accordance with the approved details. Thereafter, the approved means of site enclosure shall be retained.
- 11) No development shall commence above ground until details of both hard and soft landscape works, including details of a permeable/porous hardstanding specification, and an implementation programme, have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details and the agreed implementation programme. The approved permeable/porous hardstanding shall be retained thereafter. The soft landscape works shall be retained and they shall be cultivated and maintained for a period of 5 years from the date of implementation and any plant failures within that 5 year period shall be replaced.
- 12) Details of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority before any above ground works commence, or within an alternative timeframe to be agreed in writing by the Local Planning Authority. No dwelling shall be occupied until the bat and bird boxes have been provided in accordance with the approved details. Thereafter, the bat and bird boxes shall be retained.
- 13) All excavations within the root protection zone of Tree T1, as identified in the Tree Survey prepared by Anderson Tree Care dated 30 August 2022, shall be hand dug only.
- 14) Before the first occupation of the dwellings hereby permitted the following windows at first floor level shall be fitted with obscure glazing to a minimum privacy standard of Level 4 Obscurity and any part of the windows that are less than 1.7 metres above the floor of the room in which it is installed shall be non-opening.
 - i) Plot 1 bedroom 3 (east facing) and bathroom (west facing)
 - ii) Plot 2 bedroom 3 (west facing) and bathroom (east facing)
 - iii) Plot 3 Master bedroom (east facing)

The windows shall be permanently retained in that condition thereafter.

- 15) The dwellings hereby permitted shall not be occupied unless the car parking accommodation as shown on the approved plans has been provided in accordance with those plans. Thereafter such car parking accommodation shall be retained for the sole purpose intended.