



Appeal Decision

Site visit made on 28 May 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13.06.2024

Appeal Ref: APP/J4423/W/23/3331620

The Wadsley Jack, 65 Rural Lane, Sheffield S6 4BJ

- 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 Stonegate Group against the decision of Sheffield City Council.
 - The application Ref is 23/00649/FUL.
 - The development proposed is hard & soft landscaping works to extend rear terrace, including the erection of 2no. fixed timber frame pergolas and festoon lighting on timber posts.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the banner heading above is taken from the decision notice and appeal form which accurately describes the proposal. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. My Decision is made in the context of the revised Framework.

Main Issues

3. The main issues are the effects of the proposed development on:
 - The supply of formal open space in the local area; and
 - The living conditions of the occupiers of nearby residential properties with particular reference to noise and disturbance.

Reasons

Open Space

4. Policy CS47 of the Council's Core Strategy (CS) refers to the safeguarding of open space. It sets out four criteria (A-D) where the development of open space will not be permitted and three criteria (E-G) where development resulting in the loss of open space would be permitted.
5. The supporting text to the Policy defines what it considers to be open space, and this includes private outdoor sports facilities such as bowling greens. The appeal site includes a privately owned bowling green, which was last used for that purpose prior to the pandemic. As a bowling green, it has not fallen within the scope of the Council's Open Space Assessment or Playing Pitch Strategy. Moreover, the appeal site has not been formally allocated in the Council's Proposals Map. Even so, as a private bowling green, albeit not currently in use,

it still falls within the Council's definition of formal open space. As such, the appeal falls to be assessed against Policy CS47.

6. There is no substantive evidence before me that there is no longer a need for the formal open space within the local area. The proposal would not result in its complete loss, and the appellant indicates that there would remain sufficient space to accommodate a bowling green measuring 31 metres by 31 metres. This moderates the extent of harm from the diminishment of the size of the open space. Nonetheless, there would still be an erosion of the formal open space and it has not been clearly shown that it is surplus to requirements. As such, I am unable to conclude on the evidence before me that the proposal would accord with the requirements of criterion A of Policy CS47.
7. I have been referred to criterion G of Policy CS47 by the appellant. This says that development that would still result in the loss of open space will only be permitted if, amongst other things, the development would be ancillary to the open space and have a minimal impact on the use or character of the open space. In this instance, although they fall under the same ownership the proposal would be related to the Public House, not the bowling green. In this regard, the erosion of the formal open space would not be supported by criterion G. Nor would it accord with any of the other criteria of Policy CS47.
8. I therefore conclude on this main issue that the proposed development would have a harmful effect on the supply of formal open space in the local area. As such, I find conflict with the requirements of Policy CS47 of the Council's Core Strategy and paragraph 103 of the Framework, when taken together and in so far as they relate to this main issue. These, amongst other things, say that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements.

Living conditions

9. The appeal site is located with the grounds of flats and gardens of residential properties along Luke Lane bordering the site. No substantive noise evidence has been provided as part of the appeal. From my observations, the area is predominantly residential in nature and, although a snapshot in time, there were low levels of background noise.
10. The appellant indicates that the proposal would result in a modest increase in outdoor seating area. I disagree, the formal outside seating area at the rear terrace would be significantly increased with the combination of the new side terrace and pergolas.
11. The existing seating area within the rear terrace is separated from the grounds of the flats and the houses along Luke Lane by the car park area and a store building. In contrast, the proposal would, amongst other things, result in a new seating area under a pergola, which would concentrate customers outside in very close proximity to the rear gardens of Nos 28 and 30 Luke Lane.
12. Noise would vary depending on the number of patrons and the nature of individuals or groups. However, in such close proximity to the neighbouring properties gardens, the increase in formal outside seating proposed, would in my view, lead to a considerable increase in noise and disturbance during

warmer weather. This would be when the outdoor seating area would be at its busiest and local residents would be spending time in their gardens and would more likely open windows, creating a friction between the nearby residents and the proposed seating area.

13. In the absence of any substantive acoustic evidence, I am not satisfied that the proposed timber boarded screen and the existing boundary treatment, would be sufficient to moderate these harmful effects to an acceptable degree. Nor would the use of conditions, including regarding a management plan overcome my concerns as it is difficult to see how situations involving high-spirited customers could be adequately controlled due to the subjective nature of interpreting such incidents.
14. My attention has been drawn to a previous application for decking at the appeal site. However, I do not have the full details of this scheme. From the evidence that is before me, the Officer Report referred to the outbuilding used by the bowling green and refers to the decking as formalising an existing situation. This contrasts with the scheme before me, which seeks an increase in capacity, closer to the neighbouring properties to the west and two pergolas.
15. I have also been referred to an application approved at the Horse and Jockey for two covered shelters in a residential area. However, I do not have the full details of this scheme and so can not be certain that the circumstances are directly comparable. From the evidence that is before me, that scheme included two shelters on an area already capable of being used for outside seating. I have no firm evidence that this is the case in this instance. Indeed, the proposal before me seeks permission for the hard and soft landscaping works to extend the rear terrace. Moreover, my concerns are not the principle of an outdoor shelter at the Public House, but the location of the proposed western most pergola in combination with the landscaping works to increase the size of the rear terrace.
16. To conclude on this main issue, the proposed development would have a harmful effect on the living conditions of the occupiers of nearby residential properties with particular reference to noise and disturbance. As such, I find conflict with the requirements of Policy H14 of the Council's Unitary Development Plan and paragraph 130 of the Framework when taken together. Broadly these, in so far as they relate to this main issue, seek to achieve a high standard of amenity for existing and future users.

Other Matters

17. The Council has not raised concerns in relation to the effects of the proposed development on the Wadsley Conservation Area (CA). The proposed seating area and pergola would have a lightweight form and appearance that would not be prominent in the CA. As such, and having regard to my statutory duties, I am satisfied that the proposal would not harm the character and appearance of the CA. The absence of harm in relation to this or other considerations is a neutral matter.

Planning Balance

18. The proposed extended seating area would offer improved facilities at the Public House, and these would benefit both customers and the business and I am mindful that the proposed development has some local support. This would

bring economic benefits from increased trade, and I recognise that following the effects of the pandemic such benefits are valuable. However, there is no substantive evidence before me that any refusal of the appeal scheme would pose a risk to the viability of the business. Nor is there any substantive evidence that alternative, less harmful options do not exist that would bring similar benefits.

19. It is not the purpose of this appeal to determine whether or not any other use or activity on the bowling green would be permitted development. Moreover, there is no substantive evidence before me that the various options outlined by the appellant constitute both permitted development and realistic fallback positions irrespective of the ownership. I have therefore considered the appeal scheme on its own merits based on the evidence before me.
20. On balance, these are not considerations that, either individually or cumulatively, outweigh the harm that I have identified to the living conditions of the occupiers of neighbouring residential properties along with the loss of open space. I have come to this conclusion having regard to the importance that the government places on making efficient use of land, building a strong, competitive economy and promoting healthy and safe communities.

Conclusion

21. The proposed development would not accord with the development plan when read as a whole and I find there to be no material considerations, that would indicate that the decision should be taken other than in accordance with it.
22. For the reasons given above, the appeal is dismissed.

Mr R Walker

INSPECTOR