



Appeal Decision

Site visit made on 23 July 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2024

This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 05 August 2024

Appeal Ref: APP/J4423/W/24/3339689

Land between 94 and 98 Wheel Lane, Grenoside, Sheffield S35 8RN

- 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 Ideal Developments Ltd (Mr Stuart Dempsey) against the decision of Sheffield City Council.
- The application Ref 23/00394/FUL, dated 6 February 2023, was approved on 12 October 2023 and planning permission was granted subject to conditions.
- The development permitted is erection of 2 dwellinghouses and associated works (amended plans).
- The condition in dispute is No.8 which states that: No above ground works shall commence until the highways improvements (which expression shall include traffic control, pedestrian and cycle safety measures) listed below have either:
 - a) been carried out; or

b) details have been submitted to and approved in writing by the Local Planning Authority of arrangements which have been entered into which will secure that such improvement works will be carried out before development is brought into use and the development shall not be brought into use until the highway improvements listed below have been carried out.

Highways Improvements:

Construction of a 2 metres wide footway across the development site frontage, entailing demolition and reconstruction of a retaining wall supporting front gardens (structural calculations, cross-sectional drawings, construction method statement, an AIP application) all to be submitted for approval to the Local Planning Authority prior to construction.

Any accommodation works to Statutory Undertakers equipment, street furniture, and highway drainage associated with the footway/retaining structure works.

- The reason given for the condition is: In the interests of highway safety.
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Decision

1. The appeal is allowed and the planning permission Ref 23/00394/FUL for erection of 2 dwellinghouses and associated works (amended plans) at land between 94 and 98 Wheel Lane, Grenoside, Sheffield S35 8RN is varied by removing Condition No.8

Background and Main Issue

2. The proposal seeks to remove Condition 8 in order to remove the requirement to demolish and reinstate the front boundary wall inside the boundary of the site. Therefore, the main issue in this appeal is whether the relocation of the front boundary wall is necessary to make the development acceptable in planning terms.

Reasons

3. Paragraph 56 of the National Planning Policy Framework (the Framework) states that 'Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.' The Planning Practice Guidance (PPG) states that the 6 tests must all be satisfied each time a decision to grant planning permission subject to conditions is made.
4. In accordance with the PPG a key question in respect of whether a condition is necessary, is that it must not be imposed unless there is a definite planning reason for it, i.e. it is needed to make the development acceptable in planning terms.
5. The boundary wall in question is a considerable structure, constructed of stone which has been subject to weathering over its lifespan. The same design of wall runs past 94 Wheel Lane onwards, but on the other boundary in front of 98 Wheel Lane, the structure is of red brick construction to a lower height. I understand that the site was originally a covered reservoir, and the wall was built to a high level in order to assist in keeping the site secure.
6. On site, it is apparent that the wall is built angled away close to the boundary with 98 Wheel Lane, so it is slightly protruding proud of the existing brick wall to the frontage of number 98.
7. From the evidence in front of me, it would appear that the condition was added following discussions between the Planning Officer and the appellant, in order to allow for a full two metre footway to the front of the site, for highway safety purposes. Subsequently, it would appear that the highways consultee has commented that the wall does not require moving in order to achieve sufficient vehicle visibility to exit the site at the proposed access.
8. There is, obviously, an existing footway to the front of the appeal site. In addition to this, the opposite side of the highway has a footway along its length. At the time of my site visit, there were two cars parked on the footpath above and below the site frontage, which I presume were for visitors to the other properties. These had the effect of making the footpath inaccessible at those points, so any pedestrians using that side of the footpath would have to walk into the highway to pass the parked cars. This situation would still occur if the wall were to be moved back and a vehicle was parked on the footway.
9. There is also the issue of the visual amenity. The wall is of long-standing construction, and it is unlikely to it could be removed and reinstated, yet still remain visually appealing, due to its time and weathering in-situ. This is not an isolated section of stone wall, as the same materials are used beyond 94 Wheel Lane, and its removal and reinstatement could well affect the character and appearance of the area.

10. Overall, I find that the limited benefit to the relocation of the wall is outweighed by the negative aspects, and the planning permission is not dependant on the move to be acceptable. Therefore, I do not find the need for the condition, or that it is reasonable.

Other Matters

11. I have noted the objections of interested parties. I am aware there is considerable planning history on the site, and many of the comments relate to the supposed disregard of the appellant to the overall planning process, and combative attitude. One must deal with the specific issue, and not an overall dissatisfaction with the planning process.
12. The highways consultee has no objection to the wall with regard to vehicle access and egress, despite interested party objections, and I find that the moving of the wall could cause visual amenity issues, despite the reservations of interested parties.

Conclusion

13. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should succeed.

Paul Cooper

INSPECTOR