



Appeal Decision

Site visit made on 18 June 2024

by B Astley-Serougi BA(Hons) LLM MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

Appeal Ref: APP/J4423/W/24/3337715

Land between 9 Brotherton Street and 204 Rock Street, Sheffield , South Yorkshire, S3 9DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mohammed Hussain against Sheffield City Council.
 - The application Ref is 23/02884/FUL.
 - The development proposed is a single detached dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for a single detached dwelling at Land between 9 Brotherton Street and 204 Rock Street, Sheffield, S3 9DW in accordance with the terms of the application, Ref 23/02884/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr M Hussain against Sheffield City Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal relates to an application for planning permission which was not determined by the Council within the prescribed period. I note that the Council would have refused planning permission should it have made a decision on the proposal. I have had regard to the parties' submissions in establishing the main issues which I set out below.
4. The application form uses the following address '9 Brotherton Street, Sheffield, S3 9DW' which fails to correspond to the vacant land. Therefore, I have used the address contained within the appeal form: 'Land between 9 Brotherton Street and 204 Rock Street, Sheffield, South Yorkshire, S3 9DW'.
5. The description of the proposed development in the application form describes the development as 'Application to build a single detached dwelling house.' I have removed 'Application to build' from the description set out in the banner heading for clarity.
6. The Council referred to Policy CS74 of the Sheffield Core Strategy 2009 in their statement of case. This was not submitted with the original appeal documentation. Upon receipt of the Policy, the appellant was invited to make comments and I have had regard to any comments made.

7. Both parties were invited to comment on the 'National Planning Policy Framework: draft text for consultation' published on 30 July 2024 during my consideration of this appeal. I have had regard to any comments made.

Main Issue

8. The main issue is the effect of the proposed development on the living conditions of the future occupants with particular reference to daylight and outlook.

Reasons

9. The location of the proposed dwellinghouse is in an established residential area. Brotherton Street is on a significant incline and consists of a mix of bungalows and two storey semi-detached properties. The existing triangular plot is vacant and overgrown. The surrounding pattern of new development in close proximity to Brotherton Street is compact in nature.
10. The proposed dwelling will maintain the building line on Brotherton Street. The proposed landscaping to the front of the property is in keeping with the soft landscaping of neighbouring properties. This planting could be managed by the future occupants of the dwelling and therefore it does not automatically result in harm to the daylight of future occupiers.
11. There are no windows on the side elevations of the proposed dwelling and as a result the side boundary walls would have no impact upon the future occupants outlook or daylight.
12. The nature of the plot sizes varies on Brotherton Street, however there are a number of compact developments with small rear gardens. It is not unreasonable therefore, for the rear windows to be in close proximity to the boundary wall or fencing. However, in this case, due to the steep incline on Brotherton Street the walls and fencing will be higher than a standard boundary wall and the site appears sunken to its surroundings.
13. The living area has two sources of natural light due to the rear elevation French doors and the front elevation window. The rear French doors due to their close proximity to the high retaining wall would as a consequence result in a limited loss of daylight and outlook for future occupiers in the habitable room.
14. The proximity and height of the boundary walls as identified above would make the outside space somewhat enclosed. Nevertheless, it is overstating to claim that it would be unusable.
15. In summary, I find that overall, the proposed dwelling would harm the living conditions of future occupiers due to the loss of daylight and outlook from rear windows serving the ground floor living area, albeit I have assessed this to be limited. There would therefore be a conflict with Policies H14 and BE5 of the Sheffield Unitary Development Plan 1998. These policies seek, among other things, to ensure developments are not detrimental to the living conditions of the future occupants of developments. Furthermore, it would also fail to accord with the Designing House Extensions Supplementary Planning Guidance which seeks to ensure development is not detrimental to the living conditions of future occupants. The development would also conflict with the aim of the National Planning Policy Framework (the Framework) in achieving well designed places.

Other Matters

16. The Council have stated that they are able to demonstrate a housing land supply of 3.01 years. This is considerably below the four-year housing land supply they are expected to deliver in line with the revised Framework (December 2023). Whilst the proposal would only deliver one unit this would nonetheless be valuable in boosting the housing stock in circumstances where there is a significant shortfall.
17. The appellant has drawn my attention to the conduct of the Council during the application process. This is a matter between the parties and not determinative to the outcome of the appeal.

Final Balance

18. The proposal would result in limited harm in regard to the living conditions of future occupants with regard to daylight and outlook and therefore there would be a conflict with the development plan as a whole. However, because of the Council's housing land supply position, paragraph 11 d) of the Framework is engaged and the tilted balance applies.
19. A high level of living conditions in terms of outlook and daylight for the future occupants of the dwelling would not be achieved considering the high brick walls due to the land levels. The impact on the living environment for the occupiers would nevertheless be mitigated by the large windows on the front elevation which results in the living area having two natural light sources when assessed in conjunction with a set of French doors to the rear, despite their relationship with the boundary walls and soft landscaping. Additionally, the side of the proposed dwelling also has usable outdoor amenity space which will result in a less compact feeling to the dwelling.
20. The proposal would deliver an additional housing unit in a Borough that is falling below the level of housing supply required by national policy. One unit would make a modest but useful contribution as indicated by paragraph 70 of the Framework. Moreover, great weight should be given to the benefits of using suitable sites within existing settlements for homes. The proposed unit is situated on land designated for housing in the Sheffield Unitary Development Plan 1998 and is supported by national policy.
21. An important aim of the Framework is to achieve well-designed places. I sought clarification from the Council in regard to paragraph 4.18 of their statement of case. I received no comments by the set deadline and I am therefore assuming that the Council have no concerns regarding the character and appearance of the proposed development and the surrounding area. The proposal would replace an unused parcel of land with a dwelling that accords with the urban grain of the surrounding area, respects the existing building line and would be visually appropriate for the area complimenting the neighbouring properties. It would therefore be compliant with CS74 of the Sheffield Core Strategy 2009 which seeks to ensure development does not detract from the character of the surrounding area. This is a significant benefit of the proposed development.
22. When assessed against the policies in the Framework taken as a whole, the limited adverse impact on the living conditions of the future occupants of the dwelling does not significantly and demonstrably outweigh the benefits of an additional home in a suitable location which would enhance the appearance of

the area. Consequently, the presumption in favour of sustainable development applies and this indicates that permission should be granted.

Conditions

23. The Council have provided a list of suggested planning conditions, which I have considered against paragraph 57 of the Framework, and advice contained in the Planning Practice Guidance. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 55 of the Framework.
24. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). A condition regarding the soft landscaping and front facing fence has been imposed (3). This is necessary to ensure a high level of design and living conditions for the future occupiers. Furthermore, I have attached a condition relating to the drainage of hard surfaces included in the appeal scheme (4). This is a necessary condition to ensure the control of surface water run-off from the site and mitigate against flooding. A condition detailing the working hours for the construction of the development is also attached (5). This is required to ensure the construction of the dwelling does not adversely impact the living conditions of the occupants of neighbouring properties. Finally, I have included a condition in relation to possible contamination on the site during construction and the consequent remediation work (6). This is necessary to ensure the site is developed appropriately for its intended use.
25. The Council have suggested a condition relating to external lighting complying with the Institution of Lighting Professionals 'Guidance Notes for the Reduction of Obtrusive Light'. However, the plans do not show any external lighting as part of the development. Consequently, a condition relation to external lighting is not necessary or proportionate.
26. Furthermore, a condition relating to the allocation of an official, registered address by the Council's Street Naming and Numbering Officer has been suggested by the Council. A breach of this suggested condition would be unenforceable and therefore as a result I do not impose it.

Conclusion

27. The proposed development would conflict with the development plan as a whole but material considerations indicate that a decision should be made other than in accordance with it.
28. For the reasons given above the appeal should be allowed.

B Astley-Serougi

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. DRW01 (proposed floor plans, elevations and site layout), DRW02 (proposed elevations and soft landscaping) and DRW03 (Location and Block Plan).
- 3) Before the development is first occupied the soft landscaping works including shrubs and the front facing fence shall be carried out in accordance with the approved details. Thereafter the completed scheme shall be maintained in accordance with the approved plans for the lifetime of the dwellinghouse.
- 4) No building hereby permitted shall be occupied until the hard surface areas to the front of the dwelling are constructed of permeable/ porous surfacing. Thereafter the approved permeable/porous surfacing material shall be retained.
- 5) Demolition or construction works shall take place only between 08:00 to 18:00 on Monday to Friday, and 08:00 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.