Planning Inspectorate

Appeal Decision

Site visit made on 27 May 2025

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

Appeal Ref: APP/J4423/W/24/3356956
Land to the rear of 81 and 83 Dore Road, Sheffield S17 3ND

- 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 Gossco 2012 Limited against the decision of Sheffield City Council.
- The application Ref is 22/02051/FUL.
- The development proposed was originally described as erection of two three storey buildings to provide residential apartments, with associated basement, car parking, works of hard and soft landscaping and other works incidental to the application proposals.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is attached as a separate Decision.

Preliminary Matters

3. I have taken the appeal site address in the heading above from the appeal form as this is a more accurate reflection of the site's location.

4. The appeal was initially made by Brooklands Investments Limited, and I was provided with a Deed of Step-in. However, only the person who made the original application can make the appeal and the original applicant was Gossco Ltd. The appellant has confirmed that Freeths LLP are the directly appointed agent of Gossco 2012 Limited. Thus, the appeal is proceeding in the name of Gossco 2012 Limited.

5. The description of development in the heading above is taken from the planning application form. During the planning application process the scheme was amended and reduced from 9 to 7 apartments. The Council dealt with the proposal on this basis and so shall I.

Main Issue

6. The main issue is whether the proposal should make a commitment to affordable housing provision.

Reasons

7. Policy CS40 of the Sheffield Development Framework: Core Strategy (2009) (CS) states that in all parts of the city, developers of all new housing developments will

be required to contribute towards the provision of affordable housing where this is practicable and financially viable.

8. Guideline GAH1 of the Council's Community Infrastructure Levy and Planning Obligations Supplementary Planning Document (2015) (SPD) states that a contribution to Affordable Housing will be required on new Housing Developments which exceed the following size threshold: Sites with capacity for 15 or more dwellings… This guideline also applies to developments below the minimum size thresholds, which would exceed the threshold when combined with an Adjoining Development Site(s).

9. In contrast to the New Dawn Homes Case[1], the SPD defines 'adjoining development site(s)' as where one or more adjacent development sites in the same ownership, and being developed concurrently, would provide 15 or more dwellings. It is worth noting that the New Dawn Homes findings acknowledge that whether a factor is a material consideration for the exercise of development management powers is not dependent upon whether it is referred to in the development plan.

10. The appeal site originally formed part of the curtilage of 79 Dore Road and comprises an area of vacant and cleared land surrounded by residential development. It is accessed from Dore Road via an existing gated private access road.

11. The site of 79 Dore Road has been developed over a number of years in essentially four different phases. This comprises 1) the 5 houses at the rear of the site (Dore Lodge Garden Development); 2) the 4 houses fronting Dore Road; 3) the 7 apartments towards the east of the appeal site; and 4) the appeal proposal. Taking into account the highlighted legal judgements[2], the developments do not accord with the SPD's definition of adjoining development site(s) given that the different phases have not been developed at the same time.

12. However, supplementary planning documents do not form part of the development plan. That is not to say that the SPD is irrelevant, it is capable of being a material planning consideration as it adds further detail to development plan policies. Furthermore, as confirmed by the Court of Appeal in the Cherkley case[3], in interpreting policy the supporting text does not have the force of a policy, and the correct focus should be on the detailed policies themselves.

13. The Brandlord case[4] laid out a specific tripartite test to determine the factual question of whether two development proposals could be aggregated or considered to form part of a larger whole. Those criteria were: ownership, whether the areas of land could be considered to be a single site for planning purposes, and whether the development should be treated as a single development. The Brandlord case provides a useful starting point rather than a comprehensive definition. Consequently, other considerations could also be relevant.

14. The Council consider that there has been a clear intent to develop out the site in its entirety, with common ownership interests throughout. Appendix 1 of their statement of case shows that PTA Developments Ltd and Brookland Developments

[1] New Dawn Homes Ltd v Secretary of State for Communities & Local Government & Tewksbury Borough Council
[2] Including Tesco Stores Ltd v Dundee City Council [2012] UKSC 13 and Trump International Golf Club Scotland Ltd v the Scottish Ministers [2015] UKSC 74
[3] Cherkley Campaign Ltd, R (on the application of) v Mole Valley DC & Anor [2014] EWCA Civ 567
[4] The Queen on the Application of the City of Westminster v First Secretary of State Brandlord Limited [2002]

Ltd were the developers for the applications relating to phase 1). Furthermore, as highlighted in the appendix, Companies House shows that Paul Gareth Cunningham and Mr Richard Law have/had a role at both those companies. It also shows that Mr Richard Law was the applicant for phases 2) and 3). The application form relating to the proposal before me was submitted by Gossco Ltd. Again, Companies House shows that Paul Gareth Cunningham and Mr Richard Law have/had a role at both those companies. Ultimately people with significant influence are named on Companies House.

15. The ownership certificates on the application form identify the Mary Law Will Trust and Wainwright Developments Limited as owners. Richard David Law is an active director at Wainwright Developments Ltd, and is also a trustee of the Mary Law Will Trust.

16. The appellant states that neither Gossco 2012 Ltd nor Paul Gareth Cunningham have any links to the Mary Law Will Trust or Wainwright Developments Limited. The appellant has provided title documents to demonstrate that there is no link with the appellant (Gossco 2012 Ltd or Paul Gareth Cunningham). Title reference SYK665211 excluded a reasonable part of the appeal site, and this area has subsequently been transferred to Brooklands Investments Ltd (rather than Gossco 2012 Ltd). The same names and developers, as those highlighted above, appear in the title documents (including: Richard David Law, PTA Developments Ltd, Gossco 2012 Ltd, Brooklands Investments Ltd, Paul Gareth Cunningham, Wainwright Developments Ltd).

17. Given that the properties of the different phases have been occupied for a while, it is not surprising that the appellant does not own the properties surrounding the site. I also do not give weight to the argument that the different phases are designed differently.

18. It is not unusual for developers to use the same consultants. However, the Mining Risk Assessment submitted with the planning application sets out the client is PTA Development Ltd rather than Gossco 2012 Ltd. Similarly, the Mining Investigation Report states the client is Brooklands Development Ltd. These companies are linked to phase 1) (and also Paul Gareth Cunningham and Mr Richard Law). Furthermore, the registered address for these companies is the same as Gossco 2012 Ltd's address.

19. The Dore Lodge Garden Development to the rear of the site has its own access. The Council accepted that there is an argument that this phase could be considered in isolation on the basis that it was distinctly separated from the other phases of the development until it was recently connected by the removal of the boundary wall adjacent to the access roads. However, Guideline GAH1 of the SPD refers to adjoining development site. Like the other phases, phase 1 formed part of the curtilage of 79 Dore Road and, in my view, a boundary wall does not render a site as being adjoining. Furthermore, as set out above, there are clear links between the developer and associated names of the developers between phase 1 and the other phases.

20. I observed on my site visit that there is a clear physical relationship between the various phases, and there is interdependence of parts of the site due to the access road. Whilst I understand that there was previously a boundary wall separating the access roads, pedestrian access can be gained between the Dore Lodge Garden

Development and the access road that serves the phase 3 apartments and would serve the appeal proposal. Although it is not unusual for inter-relationships between sites such as shared accesses, there is a clear physical relationship between the various phases. Furthermore, the sites of the phases all adjoin one another.

21. My attention has been drawn to an appeal decision which considered the tests set out in the Brandlord case[5]. However, the circumstances of the cases cannot be directly compared (such as relationship between the sites and developers involved), and it appears that the development plan in that case referred to sites being sub-divided to avoid developer contributions.

22. To conclude, based on the evidence submitted, whilst different company names have been used throughout the different planning applications, the companies and people associated with the different phases at the time of the applications are interlinked (with Richard David Law and Paul Gareth Cunningham have been involved in every development). The appellant has failed to robustly demonstrate the ownership of the sites are not linked. Furthermore, the sites all formed part of the curtilage of 79 Dore Road and there is a physical relationship between the various phases. Thus, when considering the site as a whole (i.e. the former site of 79 Dore Road), the number of dwellings surpasses the threshold as set out within the affordable housing policy. Consequently, given the relationship between the appeal site and wider former site of 79 Dore Road, in the context of the provision of affordable housing, the different phases of development should be cumulatively considered.

23. For these reasons, and lack of viability appraisal, the development fails to secure appropriate contributions towards the provision of affordable housing. Thus, it would be in conflict with Policy CS40 of the CS, the SPD, and paragraphs 64-66 of the National Planning Policy Framework (the Framework).

Other Matters

24. The Council concede that they cannot demonstrate a five year housing land supply. The development would result in seven apartments and therefore would contribute to housing land supply, to a limited degree. The development would also provide social, economic, and environmental benefits. These benefits include that the apartments could provide a suitable home for elderly people which could subsequently free up existing larger homes currently occupied by older people. The benefits weigh in favour of the proposal, and as stated in paragraph 73 of the Framework, great weight should be given to the benefits of using suitable small and medium sites within existing settlements for homes.

Planning Balance and Conclusion

25. The proposal would fail to secure appropriate contributions towards the provision of affordable housing. Thus, it would conflict with Policy CS40 of the CS. It would therefore not accord with the development plan as a whole and this is a matter that counts significantly against allowing the appeal. Given the absence of a 5 year supply of housing land, paragraph 11(d)(ii) of the Framework is engaged.

26. Weight may still be afforded to policies depending on their consistency with the Framework. The most relevant policies are consistent with the aims of the

[5] APP/G2713/W/23/3317426

Framework. There is nothing within the Framework to suggest that the policy requirements should be lessened on account of the shortfall in housing supply. In that context, I attach significant weight to the conflict with the development plan.

27. In considering paragraph 11(d)(ii) of the Framework, I must determine whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

28. For the reasons given above, the proposal would fail to secure appropriate contributions towards the provision of affordable housing. Although the Framework sets out that great weight should be given to the benefits of using suitable small and medium sites within existing settlements for homes, paragraph 11(d)(ii) of the Framework specifically refers to providing affordable homes. The benefits of the scheme would not outweigh the conflict found. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

29. The proposal would be contrary to Policy CS40 of the CS and I afford this conflict, with the relevant policies of the development plan, significant weight.

30. For the reasons given above, to conclude, the proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal does not succeed.

L Wilson

INSPECTOR