



Appeal Decision

Site visit made on 19 August 2025

by **H Jones BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 September 2025

Appeal Ref: APP/J4423/W/25/3364242

16 Whiteley Lane, Sheffield S10 4GL

- 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 Andy Howarth against the decision of Sheffield City Council.
 - The application Ref is 24/03629/FUL.
 - The development proposed is a single storey 1 bedroom dwelling to be constructed as a self build.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's submissions include a plan, referenced A3-02_(1_of_2) A, which depicts a boundary between Nos 14 and 16 Whiteley Lane. The appellant asserts that this demonstrates that the plot of land subject to the proposal is wider than that shown on the Location Plan. Plan A3-02_(1_of_2) A was not before the Council when it determined the planning application, and it has been submitted after the deadline has passed for interested parties to submit comments on the appeal.
3. I am mindful that local residents made representations relating to the site's size and boundaries at the application stage. Given the timing of the submission of Plan A3-02_(1_of_2) A, and the absence of consultation upon it, if I were to accept it, I find that it would deprive local residents of the opportunity to consider a matter that they would reasonably expect to be afforded. This would be procedurally unfair. Therefore, in coming to my decision, I have disregarded Plan A3-02_(1_of_2) A.
4. There is evidence before me which indicates to me that a new local plan for Sheffield is emerging (the Emerging Plan). I have limited information before me in relation to the precise stage at which the Emerging Plan is at, the level of unresolved objection that there may be to it or the degree of consistency of policies within it to the content of the National Planning Policy Framework (the NPPF). Furthermore, the evidence before me does not contain the full content of any of the Emerging Plan's policies which may be of any relevance to the proposal. In the circumstances, the Emerging Plan is a matter of limited weight in my decision.

Background and Main Issues

5. Given the content of the Council's reason for refusal, one main issue in the appeal is:
 - The effect of the proposed development on the character and appearance of the area.
6. Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) introduced a statutory biodiversity net gain framework. The

proposal is advanced on the basis that, as it seeks the provision of a self-build dwelling, it is exempt from that framework's mandatory biodiversity net gain requirement to deliver at least a 10% increase in biodiversity value relative to the site's pre-development biodiversity value (the mandatory BNG).

7. I have sought the views of the appellant, and of the Council, on matters surrounding whether the proposed dwelling would be secured as a self-build property and any implications in relation to the statutory biodiversity net gain framework. I have had regard to the responses I have received.
8. Even though the matter of the proposal being secured as a self-build dwelling, and the validity of the exemption from the mandatory BNG, did not constitute a reason for the Council to refuse the planning application, given biodiversity net gain is a matter subject to a statutory framework, the proposal's degree of compliance with it is an important planning consideration and a substantive matter in the appeal.
9. Consequently, my second main issue is:
 - Whether the proposal validly qualifies as an exemption from the mandatory BNG and, if not, the implications of this.

Reasons

Character and appearance

10. No 16 Whiteley Lane (No 16) is situated within a well-established residential area. It is part of the prevailing character of the area for residential properties to front onto the roads they are accessed from and to be served by gardens to their rear. Although my attention has been drawn to some properties where these back gardens are more modest, from the evidence before me, and my own observations on site, it is more typical that they are spacious and, furthermore, that they exhibit a mature and settled character. Very reflective of these characteristics, No 16 fronts onto Whiteley Lane with a front-of-plot driveway, and it has a generous and mature back garden which accommodates quite typical domestic adjunct such as a garden office and a tree house.
11. In comparison to other properties in the area, the proposed dwelling would be modestly sized, and I note that it has been reduced in size from an earlier rendition of the scheme. Since the likes of the garage and the tree house would be demolished, it is also the case that the proposal would replace some built development rather than simply add to that which is already there. Detailed design facets, such as the provision of a green roof, have been adopted which would assist in limiting the dwelling's visual prominence in comparison to a scheme without such design consideration.
12. Nevertheless, the proposal would be transformative: overall, No 16's back garden would become considerably more built-up with areas of garden and typical domestic adjunct replaced with a whole new dwelling and an extensive new driveway arrangement. Altogether, the nature and totality of this development would amount to a serious loss of No 16's existing back garden and represent overdevelopment. It would harmfully contrast with, and detract from, the spaciousness, verdancy and ancillary character of No 16's existing back garden and the other garden land which prevails in the site's surroundings.

13. The appellant asserts that the garden which would remain to serve No 16 would exceed the recommendations of the South Yorkshire Residential Design Guide and, I acknowledge that, upon completion of the proposed development, a garden of the proportions proposed would not be a very small one. Nevertheless, it would represent a considerable diminishment in comparison to the spacious and established subsisting conditions.
14. A new dwelling has been built in a back-land position on the adjacent site. However, the full details of that case, and of the circumstances which led to it gaining permission, are not before me. Therefore, it is not clear to me that the decision-making contexts of the two schemes are very similar, and I must consider the appeal proposal before me on its own merits having regard to the evidence before me now. Moreover, I note the comments of the appellant to the effect that the adjacent development has caused some harmful effects, and it is my view that cumulative effects with a concentrated enclave of back-land development harmfully at odds with the prevailing character of the area would be the overall result. Therefore, the presence of the adjacent development does not weigh in favour of the appeal scheme.
15. The appellant refers to other garden and back-land developments in Sheffield, asserting that comparisons can be drawn between them and the appeal proposal in respect of their effects upon character and appearance, and the relative density of development. However, again, I have limited information before me on each of these cases, including the reasons why they were deemed to be acceptable, and in respect to the characteristics of the immediate surroundings of the various sites. Consequently, I cannot conclude that these cases are very comparable to the proposal before me and, as a result, the cited developments are a matter of limited weight in my decision.
16. For the reasons given above, the proposed development would result in unacceptably harmful effects on the character and appearance of the area. Consequently, the proposal conflicts with Policy H14 of the Sheffield Unitary Development Plan (the UDP). Amongst other matters, Policy H14 seeks to ensure that sites are not over-developed, that development does not result in a serious loss of existing garden space which would be harmful to the character of the neighbourhood, whilst it further requires new buildings to be well designed so that they would remain in scale and character with neighbouring buildings. I also find that the proposed development would conflict with content within the NPPF which seeks to ensure development adds to the overall quality of an area and would be sympathetic to local character.

The Mandatory BNG

17. The description of the development proposed refers to a self-build dwelling. However, this description alone would not exert sufficient control, restriction or limitation over the form of dwelling delivered. The Council has referred to the use of directives/informatives. However, these are only advisory, they are not mechanisms sufficiently robust, or with the requisite force, to secure a self-build dwelling.
18. I have considered whether, in the event I were to allow the appeal, a condition could be used to secure the self-build dwelling. However, I can think of no condition wording which would meet the tests for the imposition of conditions set out within the NPPF and which would satisfactorily secure a self-build dwelling. Furthermore, this option has not been advanced to me.

19. In my view, the appropriate mechanism to secure that the proposed development would deliver a self-build dwelling would be a planning obligation made under Section 106 of the Town and Country Planning Act 1990. However, no planning obligation is before me. It can be appropriate, in exceptional circumstances, for a negatively worded condition to be used which requires a planning obligation to be entered into before development can commence. However, it has not been demonstrated that such exceptional circumstances exist in this case.
20. The outcome of this is that I am not satisfied that a self-build dwelling would be secured. To constitute a valid exemption from the mandatory BNG, I must have the requisite certainty that a self-build dwelling would be delivered. Given the circumstances, that would not be the case here, and I cannot treat the proposal as being exempt from the mandatory BNG.
21. Developments subject to the mandatory BNG are required to meet the minimum information requirements set out in Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. This includes information demonstrating the pre-development biodiversity value of the site and the completed metric calculation tool. This information, and the minimum information requirements as a whole, are not before me. More generally, the information on the composition and value of existing on-site habitats and that which would be provided upon completion of the proposed development are limited.
22. As a result, I cannot determine the pre-development biodiversity value of the site. The successful discharge of the biodiversity gain condition, which would be imposed in the event that planning permission was granted, would be predicated upon a 10% increase in the site's biodiversity value relative to its pre-development value being achieved. Given the deficient information before me, I fail to see how the mandatory BNG would be met.
23. Therefore, the proposal does not validly qualify as an exemption from the mandatory BNG, and I fail to see how the mandatory BNG would be met. This is a factor which weighs heavily against the appeal proposal. It also leads me to the conclusion that the proposal is in conflict with policy within the NPPF which advocates that developments provide for biodiversity net gains, seeking their integration as a part of their design.

Other Matters

24. The appellant refers to an alternative proposal for a two-storey side extension creating a multi-generational home. However, no clearly defined alternative development has been submitted to me by the appellant, so I cannot compare a precise scheme to the appeal proposal. Regardless, such a scheme would be very different to the proposal before me. It would not entail the same type of back-land garden redevelopment the subject of the appeal. It is not at all clear to me that the alternative scheme would be very likely to result in a similar or greater level of harm in comparison to the appeal scheme. Therefore, the alternative proposal referenced does not weigh in favour of the appeal.
25. The proposal would result in a boost to housing supply at a time when the Council cannot demonstrate a deliverable 5-year supply of housing land and where the results of the Housing Delivery Test demonstrate issues with housing delivery. I discuss the implications of this further in my planning balance.

26. The appellant asserts that the proposed dwelling would be energy efficient, would incorporate renewable energy technologies and has been designed to be accessible for a range of occupants, complying with relevant building regulations in the latter regard. However, the evidence submitted in these regards is limited and, in any case, good design is a key aspect of sustainable development, and it is fundamental to the planning process. In the circumstances, the benefit that would be derived from these facets of the proposal would be limited.
27. The proposed dwelling would be well-separated from neighbouring dwellings. Coupled with its scale and window positioning, this would prevent harmful infringements upon the living conditions of neighbouring occupiers in respect to the likes of privacy and outlook. It may also be the case that, in respect of a range of other planning considerations, such as its effects upon highway safety and flood risk, the proposed development would not result in other harmful effects. However, an absence of harm in respect of these matters is a neutral factor in my decision, and it does not weigh in favour of the proposal.
28. The appeal site is not within it, but the Fulwood Conservation Area (the CA) is located within its surroundings. Farther along Whiteley Lane, there is a group of grade II listed buildings: Fulwood Old Chapel, the Stocks at Fulwood Old Chapel and No 8 Whiteley Lane, together with the grade II listed park: Porter Valley Parks.
29. The significance of the CA as a whole principally stems from its historic and architectural interest which is exhibited by the likes of its collection of landmark and historic buildings, the character of its main winding thoroughfare and the verdancy of its open land. Altogether, the aforementioned collection of listed buildings also have architectural and historic interest as a result of their traditional design, considerable age and the evidence they provide of faith and past lives. Finally, Porter Valley Parks is an extensive sequence of municipal parks and green spaces. The aesthetics of these parks and green spaces mean that it has architectural value, but it again has historic value as illustrates the development of recreational land designed to serve the local populace.
30. Separating the appeal site from each of these designated heritage assets are the likes of other properties and garden land and, in some instances, Whiteley Lane itself. Therefore, the appeal site has a fragmented and detached relationship with the heritage assets. Coupled with the nature and scale of the development proposed, this means that no harm to any of the heritage assets I have referred to would arise.

Planning Balance

31. In my first main issue, I have identified conflict with Policy H14 of the UDP. I have not identified conflict with any of the other development plan policies which are before me. Nevertheless, the conflict with Policy H14, which is derived from the harm which would be caused to the character and appearance of the area, is sufficient that I find that the proposal would conflict with the development plan taken as a whole.
32. As the Council cannot demonstrate a deliverable 5-year supply of housing land, and indeed has not passed the Housing Delivery Test, paragraph 11 d) of the NPPF applies. The application of paragraph 11 d) requires me to consider whether the adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits when assessed against the NPPF's policies as a whole.

33. The evidence I have before me indicates that the Council can demonstrate only approximately 3 years' worth of housing supply. Therefore, the shortfall is significant, and the need for housing is pressing. The proposed development would boost housing supply. It would provide a choice of homes in the area and, as a development of only a single dwelling, there is the potential for the dwelling to be delivered quickly too. With the site being situated within an established suburban area, the dwelling would be developed in an accessible location, suitable in sheer principle terms for housing. The contribution to housing supply in this case would only be very modest but, having regard to Sheffield's housing position, it would, nevertheless, be very valuable. In the circumstances, I attribute a significant amount of weight to it as a benefit.
34. In my other matters, I refer to some other benefits of the proposal. However, the other benefits of the proposal would be very modest, and the added benefit of these would only be a limited one.
35. As I have set out, the harm to the character and appearance of the area which would result from the proposal means that there is conflict with policy within the NPPF which seeks to ensure development adds to the overall quality of an area and would be sympathetic to local character. The harm would be localised though, therefore, I attribute a moderate amount of weight to this.
36. However, in my second main issue, I have concluded that the proposal does not validly qualify as an exemption from the mandatory BNG, and I set out that I fail to see how the mandatory BNG would be met. I have identified conflict with policy within the NPPF as a result. The proposal's position in respect to the statutory biodiversity net gain framework is a factor which weighs heavily against the appeal proposal.
37. Given the heavy weighting I have applied to the proposal's situation with respect to biodiversity, when this is taken together with the harm to the character and appearance of the area, the adverse impacts of granting planning permission in this case would significantly and demonstrably outweigh the benefits which would principally stem from the proposal's contribution to housing supply. Therefore, the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

38. The proposal conflicts with the development plan as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR