



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of City Growth Department

Date: 6 November 2018

Subject: RECORD OF PLANNING APPEALS
SUBMISSIONS & DECISIONS

Author of Report: Marie Robinson 0114 2734218

Summary:

List of all newly submitted planning appeals and decisions received, together with a brief summary of the Inspector's reason for the decision

Reasons for Recommendations

Recommendations:

To Note

Background Papers:

Category of Report: OPEN

DEVELOPMENT SERVICES

REPORT TO PLANNING &
HIGHWAYS COMMITTEE
6 NOVEMBER 2018

1.0 RECORD OF PLANNING APPEALS SUBMISSIONS AND DECISIONS

This report provides a schedule of all newly submitted planning appeals and decisions received, together with a brief summary of the Secretary of State's reasons for the decisions.

2.0 NEW APPEALS RECEIVED

(i) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for erection of a detached dwellinghouse within the curtilage of 27 Hesse Road Sheffield S6 1WP (17/04675/FUL).

(ii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for a single-storey front extension to shop Al-Sultan 3 Gower Street Sheffield S4 7HA (18/00914/FUL).

(iii) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for erection of front and rear dormer windows 20 Cruise Road Sheffield S11 7EF (18/01375/FUL).

(iv) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for erection of a conservatory to the front of dwellinghouse (Re-submission of planning permission 17/04295/FUL) 21 Moorsyde Avenue Sheffield S10 1QH (18/02092/FUL).

(v) An appeal has been submitted to the Secretary of State against the delegated decision of the City Council to refuse planning permission for erection of a dwellinghouse and ancillary detached garage within the curtilage of 126 Bushey Wood Road Sheffield S17 3QD (18/01878/FUL).

3.0 APPEALS DECISIONS – DISMISSED

(i) To report that an appeal against the delegated decision of the Council to refuse planning consent for change of use of outbuilding to shop (Use Class A1) (Retrospective) 81 The Oval Sheffield S5 6SP (Case No 18/00102/FUL) has been dismissed.

Officer Comment:-

The Inspector considered that the main issues were the effect on the character of the area; the effect on highway and pedestrian safety; and the effect on living conditions of neighbours. He concluded that the proposal would be harmful to the character and appearance of the area as it would be inconsistent with the quiet residential nature of the location and would inevitably also include additional paraphernalia such as lighting and signage. HE considered that it would also result in additional vehicular and pedestrian activity which could increase the risk of accidents. It would therefore be contrary to Policy H14 of the UDP and the NPPF.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning consent for replacement windows/facade and addition of balconies to 1st , 2nd, 3rd and 4th floors 40-50 Castle Square Sheffield S1 2GF (Case No 17/04660/FUL) has been dismissed.

Officer Comment:-

The Inspector considered that the main issues were the effect of the proposed development on the character and appearance of the building and its surroundings and whether the inclusion of balconies would result in harmful living conditions for residents.

He concluded that the proposal would eliminate much of the horizontal character of the building and would result in the loss of the distinctive glazing pattern to the stairwells. It would therefore be harmful to the character of the building because it would result in the loss of many of its distinguishing features.

In terms of the living conditions in relation to the balconies being noisy he considered that people choosing to live here would be aware of this and they would still be able to enjoy a satisfactory internal noise environment by closing windows.

His final conclusion was that the changes to the building would be harmful and would be contrary to Policies BE5 and S10 of the UDP as well as the NPPF which requires good design.

4.0 APPEALS DECISIONS - ALLOWED

5.0 ENFORCEMENT APPEALS - DISMISSED

(i) To report an appeal against two enforcement notice served by the City Council for the unauthorised erection of a building and for the use of the land for agricultural, storage/distribution and residential use at 'White Waters' Station Road Halfway Sheffield S20 3AD (Planning Inspectorate Ref: APP/J4423/C/17/3186170 and APP/J4423/C/17/3186155 have been dismissed.

Officer Comment:-

Two Enforcement Notices were served for (i) Notice A - material change of use of the land from a mixed use of agricultural and storage/distribution to a mixed use of agricultural storage/distribution and residential and (ii) Notice B - the erection of the building on this land. The two enforcement notices were served in parallel to meet any argument, on appeal, as to whether the alleged breach of planning control was a material change of use or operational development.

The appellant appealed against the service of the two notices on ground (a) that planning permission should be granted and on ground (g) that the timescale for compliance is too short. However, originally the appellant also appealed against Notice A, on ground (b) that those matters have not occurred and against Notice B, on ground (d) that at the date the notice was served, no enforcement action could be taken but these were subsequently withdrawn.

On the ground (a) appeals, the main issue was (i) whether or not the developments are inappropriate development in the Green Belt; (ii) the effect of the developments upon the openness and purposes of the Green Belt; and (iii) if the developments are inappropriate, whether the harm by reason of inappropriateness, and any other harm including whether the occupiers of the building/residential use would be at unacceptable risk of flooding, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the developments.

The Inspector considered whether the erection of the building amounts to infilling and if the development has taken place on previously developed land. The inspector concluded that there was no definition of infilling in the NPPF and concluded that the erection of the building is not infilling as the site is not within a village and the dwellinghouse does not fall within a substantially developed road frontage and does not fall within the confines of a group of buildings. With regards to the previously developed land the Inspector didn't reach a view on whether the land is previously developed. However, he did state that if the site was considered previously developed, this would not be enough to outweigh the concerns relating to Green Belt and flood risk.

The Inspector concluded that the erected building has had a moderate impact on the openness of the Green Belt. The impact on the openness of the Green Belt is greater than before the building was erected. Therefore, and in respect of Appeal B, the dwellinghouse is inappropriate development in the Green Belt and for the same reasons, does not consider that that the residential element of the mixed use has preserved the openness of the Green Belt.

Flood Risk – The dwellinghouse falls within flood zone category 3a. The Inspector determined that the Flood Risk Assessment provided is deficient and unacceptable. The sequential assessment is not passed and it has not been possible for the Inspector to conclude with any certainty that continued occupation of the building for residential purposes would be safe from a risk of flooding.

Other considerations - The inspector considered that the contribution to housing supply from one dwelling is not significant and any positive housing land supply from one dwelling is not significant.

Therefore, the ground (a) appeals failed.

For the ground (g) appeal the appellant considered the six months specified in the notice to be too short as the occupier had a medical condition, would have to find alternative accommodation and for the dwelling and resulting materials to be removed from the land. The Inspector determined that there was no compelling reason as to why the occupier of the dwellinghouse could not find alternative accommodation within a six month period, or that more than six months would be needed to remove the building and the associated materials from the land and to cease the residential use of the site. Therefore he concluded that the six month time period was both reasonable and proportionate.

Therefore, the ground (g) appeals failed.

The notices were upheld and unchanged.

Costs - The Inspector notes that the appellant had not provided any compelling or good reasons to indicate why the grounds of appeal on ground b and d were withdrawn in May 2018. This Inspector believed that this was a considerable amount of time after the appeals were initially lodged with the Planning Inspectorate. In making the appeals on legal grounds, the Inspector notes that the appellant's planning expert(s) should have sought counsel opinion much earlier on if they were uncertain about whether the appeals on legal grounds had a reasonable chance of success. The appellant has been professionally represented from the start of the appeal, so should have been aware of such matters in pursuing the appeals. The Inspector concluded that the Council has wasted both time and expense in respect of the ground (b) and (d) appeals up to 21 May 2018. The costs award is therefore partial and limited to costs incurred in respect of the appeal on ground (b) for Notice A, and ground (d) for Notice B.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning consent for application under Section 73 to vary condition 2 (Approved drawings) and to remove condition 7 (Alterations of existing dwelling) of approved planning application 17/01522/FUL to retain the existing dwelling house 6 Chancet Wood View Sheffield S8 7TS (6A Chancet Wood View, S8 7TS) (Case No 18/00432/FUL has been dismissed.

Officer Comment:-

This appeal sought to amend the approved drawings to allow the retention of the existing dwelling on the site in full, without it's partial demolition, in addition to constructing a new dwelling immediately adjacent.

The Inspector identified the main issue as the effect of the removal of the condition on the character and appearance of the area.

He noted that whilst the area contains a variety of house types, each in small groups, spacing between dwellings is an important characteristic of the area which creates a distinctive rhythm on each section of Chancet Wood Road.

He considered the partial demolition of the existing dwelling was necessary in order to achieve the appropriate spacing between the existing and proposed (under construction) dwelling and to ensure no harm to the street scene. He therefore concluded the proposal would have an unacceptable and harmful effect on the character of the area in conflict with policies BE5 and H14 of the UDP, CS74 of the Core Strategy and the NPPF.

6.0 RECOMMENDATIONS

That the report be noted.

Rob Murfin
Chief Planning Officer

6 November 2018