



SHEFFIELD CITY COUNCIL Planning & Highways Committee

Report of: Director of City Growth Department

Date: 17 December 2019

Subject: RECORD OF PLANNING APPEALS
SUBMISSIONS & DECISIONS

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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
17 DECEMBER 2019

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 application to establish the lawful development of detached garage outbuilding (Application under Section 191) at Heather Bank Holdworth Lane Sheffield S6 6SN (Case No 18/04769/LU1)

(ii) 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 5/6/7 storey mixed use building comprising commercial units A1/A2/A3/B1 use at ground floor and 77 residential apartments with associated amenity space including cycle/bin store (Amended Description and Plans) at site of Old Coroners Court Business Centre 14 - 38 Nursery Street Sheffield S3 8GG (Case No 19/02258/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 removal of existing 14.7m monopole and erection of 20.0m Phase 7 monopole with associated equipment cabinets/works at land adjacent Berkeley Precinct 451 Ecclesall Road Sheffield S11 8PN (Case No 19/02956/FULTEL)

3.0 APPEALS DECISIONS – DISMISSED

(i) To report that an appeal against the delegated decision of the Council to refuse planning permission for demolition of existing dwellinghouse and erection of a new dwellinghouse at Heather Bank Holdworth Lane Sheffield S6 6SN (Case No 18/00107/FUL) has been dismissed.

Officer Comments:-

This relates to an application to demolish an existing chalet bungalow and erect a replacement two-storey dwellinghouse, which was submitted to the Council in January 2018. Following the Council's failure to determine the

application within 8 weeks, the appellant submitted an appeal to the Planning Inspectorate for non-determination (ref. APP/J4423/W/18/3208670). The Inspector allowed the appeal, subject to the imposition of 4 conditions including the removal of the property's Permitted Development Rights. He concluded that, as the proposal would result in a smaller increase in volume than the suggested maximum for permitted development, and given that the proposed dwellinghouse would only be marginally greater than the building's existing footprint, there were very special circumstances that outweighed the substantial harm to the Green Belt from inappropriate development.

The Council successfully challenged the decision of the Planning Inspectorate on four grounds, one being that the Inspector had failed to properly consider the impact of the development on the openness of the Green Belt, and the decision was quashed in May 2019.

This latest appeal decision reconsiders the original non-determined proposal, noting that, if it had proceeded to determination, the Council evidence indicates that planning permission would have been refused as it considers the development would constitute inappropriate development in the Green Belt with an associated impact on its openness.

The Inspector clarifies that the main issues are: whether the proposal is inappropriate development in the Green Belt and, if it is, whether the harm is clearly outweighed by other considerations such that there are very special circumstances to justify the development.

Para 145 of the NPPF asserts that construction of new buildings should be regarded as inappropriate in the Green Belt, which is subject to exceptions including clause d) which allows for a replacement building provided it is in the same use and not materially larger than the one it replaces. The Inspector found that the proposed house would be materially larger.

Clause g) of para 145 allows limited infilling or the partial or complete redevelopment of previously developed sites, which would not have a greater impact on the openness of the Green Belt. The Inspector found that, despite some screening, the scale, bulk and massing of built form arising from the cumulative increase in height and depth relative to its proposed footprint would be perceptible and would have a greater impact on the openness of the Green Belt than the existing development and so concluded that the proposal is inappropriate development in the Green Belt.

In relation to very special circumstances, the Inspector found that the removal of a dwelling with asbestos concrete and the improved energy efficiency of the replacement dwelling were not benefits that amounted to very special circumstances. Neither was he satisfied that other options had been fully exhausted that delivered a less harmful replacement dwelling with similar benefits.

The appellants had argued that the existing dwelling could be rebuilt in its current layout and that it retains permitted development rights under GDPO,

with the proposal comprising 43% of the total footprint, 74% of the total volume and 84% of the total length of frontage of the identified fallback position.

The Inspector felt that it was not within the remit of this appeal to determine the precise permitted development rights associated with the existing building or the site. However, based on the condition of the current building, he expressed reservations as to whether it could be repaired without planning permission to an extent that the suggested alterations and extensions would be feasible. He also noted that the fallback position was of a more modest height than the proposal and arranged over a greater proportion of the site and the possibility of such a development is not justification for the harmful loss of openness of the Green Belt.

The Inspector also concluded, therefore, that the very special circumstances necessary to justify the development do not exist.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning permission for erection of single-storey rear extension to dwellinghouse. (Amended 27.06.2019) at 200 Earl Marshal Road Sheffield S4 8LB (Case No 19/00132/FUL) has been dismissed.

Officer Comment:-

The Inspector agreed that, due to the proximity of the neighbouring properties, the proposed 8 metre deep rear single storey extension would result in unreasonable over-dominance and create a sense of enclosure which would be substantively detrimental to the amenities of the occupiers of neighbouring properties, but that, given its position, the proposed single storey extension would have only a limited adverse impact on levels of daylight.

The Inspector also agreed that, as the patio doors of the extension would be less than 1.5 metres away from a wall, future occupiers would have very limited outlook from a substantial living space and that, as the patio doors were the only source of natural light, the amount of daylight in the extension would be limited.

They concluded that the extension would have a significant adverse impact on the living conditions of neighbouring and future occupiers with regard to loss of daylight and outlook.

4.0 APPEALS DECISIONS – ALLOWED

(i) To report that an appeal against the delegated decision of the Council to refuse planning consent for application under Section 73 to remove condition

18 (Permitted development rights) imposed by planning permission 18/03000/FUL - erection of a dwellinghouse with integral double garage (Resubmission of planning permission 17/04626/FUL) at 29 Overcroft Rise Sheffield S17 4AX (Case No 19/02030/FUL) has been allowed.

Officer Comment:-

This appeal related to the refusal of planning permission for a request to remove a condition imposed by the Planning Inspectorate on a previous appeal decision. The condition withdrew all permitted development rights from the dwelling.

On considering this case the Inspector noted that the condition was originally imposed by the first appeal Inspector given the site's sensitive location partly within the Green Belt and within an Area of High Landscape Value (AHLV).

The main issue was whether the condition is necessary and reasonable given the sensitive location.

In considering this he agreed with the previous Inspector that the dwelling, whilst on the edge of an open field would be closely associated with neighbouring dwellings and would not therefore harm the AHLV, though would be readily visible from it and from the Green Belt.

He noted that all the permitted development rights removed have the potential to increase the visual intrusion of the dwelling, and given the size of the dwelling and the extent of works permitted, significantly so.

He resolved that a number of the smaller elements of permitted development rights (roof alterations, porches, chimneys, and microwave antennae) would not result in significant harm, as they would be relatively minor alterations within the context of housing to the rear.

He took a different view however on the elements of permitted development that involved extension and enlargement, additions to the roof, outbuildings, hard surfaces, and fences/walls as he felt these could significantly and harmfully increase visual intrusion.

He therefore concluded that the imposition of the original condition was in part reasonable and necessary, and varied the condition rather than agreeing to its removal.

(ii) To report that an appeal against the delegated decision of the Council to refuse planning consent for Formation of additional raised external seating area to rear of public house at 173 West Street City Centre Sheffield S1 4EW (Case No 18/01647/FUL) has been allowed.

Officer Comment:-

The main issue in this case was not the actual provision of the external

seating; it was in relation to the hours of use that were requested. The Inspector rightly pointed out therefore that the effect of the proposal on the living conditions of nearby occupiers was the key consideration given that the application sought to use the outdoor area until 3am every day (with amplified music played externally until 10pm every day).

He noted that there are a substantial number of apartments in close proximity and took significant account of the noise assessment report submitted by the applicant, whilst noting that there are no formally adopted British Standards to assess noise associated with outdoor seating areas.

He accepted the conclusions of the report, despite the fact that the Council's Environmental Protection Service had significant concerns about the proposals and the fact that the Council has successfully argued for the hours of use of outdoor spaces to be controlled to protect city centre residents in the past, given that it is not possible to control the behaviour of people using these spaces.

Nevertheless, the Inspector argued that there was no compelling evidence to argue against the submitted noise report and on this basis he accepted the proposals as being in conformity with the UDP and the NPPF.

5.0 CIL APPEALS DECISIONS

Nothing to report

6.0 ENFORCEMENT APPEALS NEW

Nothing to report

7.0 ENFORCEMENT APPEALS DISMISSED

Nothing to report

9.0 RECOMMENDATIONS

That the report be noted.

Colin Walker
Interim Head of Planning

17 December 2019

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